



# **GENERAL ASSEMBLY**

## **COMMONWEALTH OF KENTUCKY**

### **2005 REGULAR SESSION**

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SENATE BILL NO. 49

AS ENACTED

Volume 4 of 4

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TUESDAY, MARCH 8, 2005

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1 shareholders everywhere at the beginning of and at the end of the  
 2 investment company's taxable year.

3 c. Nonbusiness income shall be allocated to this state as provided in  
 4 subsections (4) through (7) of this section.

5 2. All business income derived directly or indirectly from the sale of  
 6 securities brokerage services by a business which operates within the  
 7 boundaries of any area of the Commonwealth, which on June 30, 1992,  
 8 was designated as a Kentucky Enterprise Zone, as defined in KRS  
 9 154.655(2), shall be apportioned to this state only to the extent that  
 10 customers of the securities brokerage firm are domiciled in this state.  
 11 The portion of business income apportioned to Kentucky shall be  
 12 determined by multiplying the total business income from the sale of  
 13 these services by a fraction determined in the following manner:

14 a. The numerator of the fraction shall be the brokerage commissions  
 15 and total margin interest paid in respect of brokerage accounts  
 16 owned by customers domiciled in Kentucky for the brokerage  
 17 firm's taxable year; and

18 b. The denominator of the fraction shall be the brokerage  
 19 commissions and total margin interest paid in respect of brokerage  
 20 accounts owned by all of the brokerage firm's customers for that  
 21 year.

22 c. Nonbusiness income shall be allocated to this state as provided in  
 23 subsections (4) through (7) of this section.

24 (10) Public service companies and financial organizations required by KRS  
 25 141.010(14)(b) to allocate and apportion net income shall allocate and apportion  
 26 such income as follows:

27 (a) Nonbusiness income shall be allocated to this state as provided in subsections

1 (4) through (7) of this section.

2 (b) Business income shall be apportioned to this state by multiplying the business  
3 income by a fraction, the numerator of which is the property factor plus the  
4 payroll factor plus the sales factor and the denominator of which is three (3);  
5 provided, however, that effective with taxable years beginning after July 31,  
6 1985, in lieu of the equally weighted three (3) factor apportionment fraction  
7 based on property, payroll, and sales, an apportionment fraction composed of  
8 a sales factor representing fifty percent (50%) of the fraction, a property factor  
9 representing twenty-five percent (25%) of the fraction, and a payroll factor  
10 representing twenty-five percent (25%) of the fraction shall be used. The  
11 payroll factor shall be determined as provided in subsection (8)(b) of this  
12 section. The property factor and sales factor shall be determined as provided  
13 by administrative regulations promulgated by the department~~{cabinet}~~.

14 (c) An affiliated group electing to file a consolidated return under KRS  
15 141.200(3) that includes a public service company or financial organization  
16 shall determine the amount of payroll to be included in the apportionment  
17 factor as provided in subsection (8)(b) of this section. The amount of property  
18 and sales of the public service company or financial organization to be  
19 included in the apportionment factors of the affiliated group shall be  
20 determined in accordance with administrative regulations promulgated by the  
21 department~~{cabinet}~~ under paragraph (b) of this subsection.

22 Section 482. KRS 141.150 is amended to read as follows:

23 (1) Every corporation subject to the jurisdiction of this state, unless excused by the  
24 department~~{cabinet}~~, shall render a correct report of its payments of dividends to  
25 residents of this state, stating the name and address of each shareholder, the number  
26 of shares owned by him, and the amount of dividends paid to him.

27 (2) Every person subject to the jurisdiction of this state, in whatever capacity acting,

1 including lessees or mortgagors of real or personal property, fiduciaries and  
 2 employers, making payment to another person, domiciled in this state, of interest,  
 3 rent, premiums, annuities, compensations, remunerations, emoluments or other  
 4 fixed or determinable gains, profits and income not subject to withholding  
 5 provisions contained in KRS 141.310 of six hundred dollars (\$600) or more in any  
 6 taxable year, shall render a true and accurate report to the department~~{cabinet}~~ of  
 7 the payments made. Every person subject to the jurisdiction of this state, in  
 8 whatever capacity acting, making payment of wages to another person domiciled in  
 9 this state, shall render a true and accurate report to the department~~{cabinet}~~ of the  
 10 payments made. In the case of such payments made by the state and its political  
 11 subdivisions, the officers or employees having information as to such payments  
 12 designated by the department~~{cabinet}~~ by the regulations hereinafter provided for  
 13 shall make such reports. The reports shall be made under the regulations and in the  
 14 form and manner and to the extent prescribed by the department~~{cabinet}~~, and shall  
 15 set forth the amount of the gains, wages, profits and income, and the name and  
 16 address of the recipient of the payments. The department~~{cabinet}~~ may also require  
 17 any person to make information reports respecting nonresidents it believes to be  
 18 subject to income tax.

- 19 (3) The reports contemplated by this section may be required, regardless of amounts, in  
 20 the case of payments of dividends or interest upon bonds, mortgages, deeds of trust  
 21 or other similar obligations of corporations. When necessary to make effective the  
 22 provisions of this section, the name and address of the recipient of the income shall  
 23 be furnished upon demand of the person paying the income. The provisions of this  
 24 section shall not apply to the payment of interest on obligations of the United States  
 25 or of this state, or the political subdivisions thereof.

26 Section 483. KRS 141.160 is amended to read as follows:

- 27 (1) All returns of income for the preceding taxable year shall be made by April 15 in



each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns of income shall be supplied by the department~~[cabinet]~~.

- (2) Whenever, in the opinion of the department~~[cabinet]~~, it is necessary to examine the federal income tax return or a copy thereof of any taxpayer in order to audit his return, the department~~[cabinet]~~ may compel the taxpayer to produce for inspection a copy of his federal return and all statements and schedules in support thereof. The department~~[cabinet]~~ may also require copies of reports of adjustments made by the federal government.

Section 484. KRS 141.170 is amended to read as follows:

- (1) The Department of Revenue~~[Cabinet]~~ may grant any taxpayer other than a corporation a reasonable extension of time for filing an income tax return whenever good cause exists, and shall keep a record of every extension. Except in the case of an individual who is abroad, no extension shall be granted for more than six (6) months. In the case of an individual who is abroad, the extension shall not be granted for more than one (1) year.
- (2) A corporation may be granted an extension of not more than six (6) months for filing its income tax return, provided the corporation, on or before the date prescribed for payment of the tax, requests the extension and pays the amount properly estimated as its tax.
- (3) If the time for filing a return is extended, the taxpayer shall pay, as part of the tax, an amount equal to the tax interest rate as defined in KRS 131.010(6) on the tax shown due on the return, but not previously paid, from the time the tax was due until the return is actually filed with the department~~[cabinet]~~.

Section 485. KRS 141.180 is amended to read as follows:

- (1) Every individual, except as otherwise provided in this section, having for the taxable year an adjusted gross income which exceeds five thousand dollars

1 (\$5,000), if single, or if married and not living with husband or wife and every  
 2 married individual living with husband or wife whose adjusted gross income  
 3 combined with the adjusted gross income of his or her spouse exceeds five thousand  
 4 dollars (\$5,000) shall make to the department~~cabinet~~ a return stating specifically  
 5 the items which he claims as deductions and tax credits allowed by this chapter.

6 (2) Any individual who is blind or who has attained the age of sixty-five (65) before the  
 7 close of his taxable year shall be required to make a return only if he has for the  
 8 taxable year an adjusted gross income which exceeds five thousand dollars  
 9 (\$5,000). Every married individual living with husband or wife shall, if both  
 10 spouses have attained the age of sixty-five (65), be required to make a return if the  
 11 combined adjusted gross income of both spouses exceeds five thousand four  
 12 hundred dollars (\$5,400). If the individual is unable to make his own return, the  
 13 return shall be made by a duly authorized agent.

14 (3) Any individual, who is both sixty-five (65) or over and blind before the close of the  
 15 taxable year, shall make a return if he has for the taxable year an adjusted gross  
 16 income which exceeds five thousand dollars (\$5,000).

17 (4) Notwithstanding any other provision of this section, an individual, having for the  
 18 taxable year gross income from self-employment of five thousand dollars (\$5,000)  
 19 or more, shall make a return.

20 (5) Any nonresident individual with gross income from Kentucky sources and a total  
 21 gross income of five thousand dollars (\$5,000) or over shall make a return.

22 (6) A husband and wife not living together shall make separate returns. A husband and  
 23 wife living together may make a joint return, or may make separate returns.  
 24 However, in the event separate returns are made, neither spouse shall report income  
 25 nor claim deductions properly attributable to the other.

26 (7) Notwithstanding any other provisions of KRS Chapters 131 and 141, a husband or  
 27 a wife who is jointly and severally liable for taxes levied under KRS 141.020,

1 applicable penalties, and interest shall be relieved of liability for tax, interest,  
2 penalties, and other amounts if:

3 (a) The spouse has been relieved of liability for federal income tax, interest,  
4 penalties, and other amounts for the same taxable year by the Internal Revenue  
5 Service under Section 6015 of the Internal Revenue Code; or

6 (b) It is shown that the spouse would have qualified for relief under the provisions  
7 of Section 6015 of the Internal Revenue Code for the same taxable year if  
8 there had been a federal income tax liability.

9 (8) Any relief granted pursuant to paragraphs (a) and (b) of subsection (7) of this  
10 section shall not result in a tax overpayment to the spouse requesting relief.

11 (9) Each individual return shall be verified by a written declaration that it is made under  
12 the penalties of perjury.

13 Section 486. KRS 141.190 is amended to read as follows:

14 (1) Every fiduciary, except a receiver appointed by authority of law in possession of  
15 part only of the property of an individual, shall make under oath a return for any of  
16 the following individuals, estates, or trusts for which he acts, setting forth therein  
17 such information as may be prescribed by the department~~[cabinet]~~:

18 (a) Every individual having an adjusted gross income for the taxable year which  
19 exceeds five thousand dollars (\$5,000);

20 (b) Every estate the gross income of which for the taxable year is twelve hundred  
21 dollars (\$1,200) or over;

22 (c) Every trust the gross income of which for the taxable year is one hundred  
23 dollars (\$100) or over.

24 (2) Any fiduciary required to make a return under this chapter shall be subject to all the  
25 provisions of this chapter that apply to individuals.

26 Section 487. KRS 141.200 is amended to read as follows:

27 (1) As used in this section, unless the context requires otherwise:

- 1 (a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the  
2 Internal Revenue Code and related regulations;
- 3 (b) "Consolidated return" means a Kentucky corporation income tax return filed  
4 by members of an affiliated group in accordance with this section. The  
5 determinations and computations required by this chapter shall be made in  
6 accordance with the provisions of Section 1502 of the Internal Revenue Code  
7 and related regulations, except as required by differences between this chapter  
8 and the Internal Revenue Code. Corporations exempt from taxation under  
9 KRS 141.040 shall not be included in the return;
- 10 (c) "Separate return" means a Kentucky corporation income tax return in which  
11 only the transactions and activities of a single corporation are considered in  
12 making all determinations and computations necessary to calculate taxable net  
13 income, tax due, and credits allowed in accordance with the provisions of this  
14 chapter.
- 15 (2) Every corporation doing business in this state, except those exempt from taxation  
16 under KRS 141.040, shall, for each taxable year, file a separate return unless the  
17 corporation was, for any part of the taxable year, a member of an affiliated group  
18 electing to file a consolidated return in accordance with subsection (3) of this  
19 section.
- 20 (3) (a) An affiliated group, whether or not filing a federal consolidated return, may  
21 elect to file a consolidated return which includes all members of the affiliated  
22 group.
- 23 (b) An affiliated group electing to file a consolidated return under paragraph (a) of  
24 this subsection shall be treated for all purposes as a single corporation under  
25 the provisions of this chapter. All transactions between corporations included  
26 in the consolidated return shall be eliminated in computing net income in  
27 accordance with KRS 141.010(13), and in determining the property, payroll,

- 1           and sales factors in accordance with KRS 141.120.
- 2           (c) Any election made in accordance with paragraph (a) of this subsection shall be  
3           made on a form prescribed by the department~~[cabinet]~~ and shall be submitted  
4           to the department~~[cabinet]~~ on or before the due date of the return including  
5           extensions for the first taxable year for which the election is made.
- 6           (d) Any election to file a consolidated return pursuant to paragraph (a) of this  
7           subsection shall be binding on both the department~~[cabinet]~~ and the affiliated  
8           group for a period beginning with the first month of the first taxable year for  
9           which the election is made and ending with the conclusion of the taxable year  
10          in which the ninety-sixth consecutive calendar month expires.
- 11          (e) For each taxable year for which an affiliated group has made an election in  
12          accordance with paragraph (a) of this subsection, the consolidated return shall  
13          include all corporations which are members of the affiliated group.
- 14          (4) Each corporation included as part of an affiliated group filing a consolidated return  
15          shall be jointly and severally liable for the income tax liability computed on the  
16          consolidated return, except that any corporation which was not a member of the  
17          affiliated group for the entire taxable year shall be jointly and severally liable only  
18          for that portion of the Kentucky consolidated income tax liability attributable to that  
19          portion of the year that the corporation was a member of the affiliated group.
- 20          (5) Every corporation return or report required by this chapter shall be executed by one  
21          (1) of the following officers of the corporation: the president, vice president,  
22          secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting  
23          officer. The Department of Revenue~~—Cabinet~~ may require a further or  
24          supplemental report of further information and data necessary for computation of  
25          the tax.
- 26          (6) In the case of a corporation doing business in this state that carries on transactions  
27          with stockholders or with other corporations related by stock ownership, by

interlocking directorates, or by some other method, the department~~[cabinet]~~ shall require information necessary to make possible accurate assessment of the income derived by the corporation from sources within this state. To make possible such assessment, the department~~[cabinet]~~ may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The department~~[cabinet]~~ may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.

(7) For any taxable year ending on or after December 31, 1995, except as provided under subsection (3) of this section, nothing in this chapter shall be construed as allowing or requiring the filing of:

- (a) A combined return under the unitary business concept; or
- (b) A consolidated return.

(8) No assessment of additional tax due for any taxable year ending on or before December 31, 1995, made after December 22, 1994, and based on requiring a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.

(9) No claim for refund or credit of a tax overpayment for any taxable year ending on or before December 31, 1995, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose.

(10) No corporation or group of corporations shall be allowed to file a combined return under the unitary business concept or a consolidated return for any taxable year ending before December 31, 1995, unless on or before December 22, 1994, the

1 corporation or group of corporations filed an initial or amended return under the  
 2 unitary business concept or consolidated return for a taxable year ending before  
 3 December 22, 1994.

- 4 (11) This section shall not be construed to limit or otherwise impair the  
 5 department's~~[cabinet's]~~ authority under KRS 141.205.

6 Section 488. KRS 141.205 is amended to read as follows:

- 7 (1) The department~~[cabinet]~~ may require either a consolidated return or a combined  
 8 return from any or all corporations conducting inter-corporate transactions  
 9 whenever the department~~[cabinet]~~ finds that such inter-corporate transactions  
 10 reduce taxable net income, as defined in KRS 141.010(14), of the corporation(s)  
 11 below the amount which would result if the transactions were at arm's length.

- 12 (2) The department~~[cabinet]~~ is authorized and empowered to assess the tax against any  
 13 of the corporations whose income is included in the consolidated or combined  
 14 return in such manner as it may determine necessary to prevent the avoidance of  
 15 income tax.

- 16 (3) In the case of corporations not required to file a consolidated or combined return  
 17 under subsection (1) of this section that carried on transactions with stockholders or  
 18 affiliated corporations directly or indirectly, the department~~[cabinet]~~ shall adjust the  
 19 net income of such corporations to an amount that would result if such transactions  
 20 were carried on at arm's length.

21 Section 489. KRS 141.206 is amended to read as follows:

- 22 (1) Every partnership or S corporation owning property or engaging in business in  
 23 Kentucky, shall, on or before the fifteenth day of the fourth month following the  
 24 close of its annual accounting period, file a copy of its federal partnership return or  
 25 S corporation return with the form prescribed and furnished by the  
 26 department~~[cabinet]~~.

- 27 (2) Partnerships and S corporations shall determine taxable income in the same manner

1 as in the case of an individual under KRS 141.010(9) to (11) and the adjustment  
 2 required under Sections 703(a) and 1363(b) of the Internal Revenue Code.  
 3 Computation of taxable income under this section and the computation of the  
 4 partners or shareholders distributive share shall be computed as nearly as  
 5 practicable identical with those required for federal income tax purposes except to  
 6 the extent required by differences between this chapter and the federal income tax  
 7 law and regulations.

8 (3) Individuals or corporations carrying on a business as a partnership or S corporation  
 9 shall be liable for income tax only in their individual or corporate capacities, and no  
 10 income tax shall be assessed upon the income of any partnership or S corporation  
 11 except as prescribed in KRS 141.040(5).

12 (a) Resident and nonresident individuals who are partners or S corporation  
 13 shareholders must report and pay tax on the distributive share of net income,  
 14 gain, loss, deduction, or credit, as determined in subsection (2) of this section,  
 15 except as provided in subsections (4) and (5) of this section. Partnerships and  
 16 S corporations may be required to withhold Kentucky income tax on the  
 17 distributive share under administrative regulations issued by the  
 18 department~~[cabinet]~~.

19 (b) Corporations which are partners must include their distributive share of net  
 20 income, gain, loss, deduction or credit, as determined under subsection (2) of  
 21 this section, except as provided in subsections (4) and (5) of this section.

22 (4) Resident and nonresident individuals and corporations which are partners in a  
 23 partnership or shareholders in an S corporation carrying on business only in  
 24 Kentucky are taxable on all items of income gain, loss, deduction or credit  
 25 determined under subsection (2) of this section and reported as their distributive  
 26 share from the partnership or S corporation.

27 (5) Nonresident individuals and corporations which are partners in a partnership or



1 shareholders in an S corporation which does business within and without Kentucky  
 2 are taxable on their proportionate share of the distributive income passed through  
 3 the partnership or S corporation attributable to business done in Kentucky.

4 (a) Business done in Kentucky is determined by the ratio of gross receipts from  
 5 sales to purchasers or customers in Kentucky or services performed in  
 6 Kentucky to the total gross receipts from sales or service everywhere.

7 (6) Resident partners, S corporation shareholders and corporations which are partners  
 8 in a multistate partnership or shareholders in a multistate S corporation are taxable  
 9 on one hundred percent (100%) of the distributive share of income, gains, losses,  
 10 deductions or credits.

11 (7) Resident individuals who are partners in a partnership or shareholders in an S  
 12 corporation which does not carry on business in Kentucky are subject to tax under  
 13 KRS 141.020 on federal net income, gain, deduction, loss or credit passed through  
 14 the partnership or S corporation.

15 (8) S corporation for purpose of this section means a corporation which has elected for  
 16 federal tax purposes to be taxed as an S corporation. An election for federal tax  
 17 purposes is a binding election for Kentucky tax purposes.

18 (9) Nonresident individuals shall not be taxable on investment income distributed by a  
 19 qualified investment partnership. For purposes of this subsection a "qualified  
 20 investment partnership" means a partnership formed to hold only investments that  
 21 produce income that would not be taxable to the nonresident individual if held or  
 22 owned individually.

23 Section 490. KRS 141.210 is amended to read as follows:

24 (1) As used in this section and KRS 141.235, unless the context requires otherwise:

25 (a) "Conclusion of the federal audit" means the date that the adjustments made by  
 26 the Internal Revenue Service to net income as reported on the taxpayer's  
 27 federal income tax return become final and unappealable; and

1 (b) "Final determination of the federal audit" means the revenue agent's report or  
 2 other documents reflecting the final and unappealable adjustments made by  
 3 the Internal Revenue Service.

4 (2) As soon as practicable after each return is received, the department~~[cabinet]~~ shall  
 5 examine and audit it. If the amount of tax computed by the department~~[cabinet]~~ is  
 6 greater than the amount returned by the taxpayer, the additional tax shall be  
 7 assessed and a notice of assessment mailed to the taxpayer by the  
 8 department~~[cabinet]~~ within four (4) years from the date the return was filed, except  
 9 as otherwise provided in this subsection.

10 (a) In the case of a failure to file a return or of a fraudulent return the additional  
 11 tax may be assessed at any time.

12 (b) In the case of a return where a taxpayer other than a corporation understates  
 13 his net income or omits an amount properly includable in net income or both  
 14 which understatement or omission or both is in excess of twenty-five percent  
 15 (25%) of the amount of net income stated in the return the additional tax may  
 16 be assessed at any time within six (6) years after the return was filed.

17 (c) In the case of a return where a corporation understates its taxable net income  
 18 or omits an amount properly includable in taxable net income or both, which  
 19 understatement or omission or both is in excess of twenty-five percent (25%)  
 20 of the amount of taxable net income stated in the return, the additional tax  
 21 may be assessed at any time within six (6) years after the return was filed.

22 (d) In the case of an assessment of additional tax relating directly to adjustments  
 23 resulting from a final determination of a federal audit, the additional tax may  
 24 be assessed before the expiration of the times provided in this subsection, or  
 25 six months from the date the department~~[cabinet]~~ receives the final  
 26 determination of the federal audit from the taxpayer, whichever is later.

27 (e) In the case of the assessment of additional tax resulting from a decrease of a

1 net operating loss deduction or a capital loss deduction, resulting from the  
 2 carryback of a loss which occurs in a taxable year beginning after December  
 3 31, 1993, the additional tax may be assessed at any time before the expiration  
 4 of the times provided for in this subsection for assessing additional tax for the  
 5 taxable year which resulted in the net operating loss or capital loss carryback.

6 The times provided in this subsection may be extended by agreement between the  
 7 taxpayer and the department[cabinet]. For the purposes of this subsection, a return  
 8 filed before the last day prescribed by law for filing the return shall be considered as  
 9 filed on the last day. For taxable years beginning after December 31, 1993, any  
 10 extension granted for filing the return shall also be considered as extending the last  
 11 day prescribed by law for filing the return.

12 (3) If any additional tax is assessed on account of any income which has been returned  
 13 for taxation by any other taxpayer, the department[cabinet], with the consent of the  
 14 other taxpayer, his personal representatives, or heirs, shall reduce the amount of the  
 15 additional tax assessed for each year by the amount of the income tax paid for that  
 16 year by the other taxpayer on account of the income in question.

17 (4) Every taxpayer shall:

- 18 (a) Notify the department[cabinet] in writing of every audit of the taxpayer's  
 19 federal income tax return within thirty (30) days after the taxpayer has or  
 20 should have had knowledge of the beginning of the audit by the Internal  
 21 Revenue Service, and
- 22 (b) Submit a copy of the final determination of the federal audit within thirty (30)  
 23 days of the conclusion of the federal audit.

24 Section 491. KRS 141.220 is amended to read as follows:

25 The full amount of the unpaid tax payable by any taxpayer, as appears from the face of  
 26 the return, shall be paid to the department[cabinet] at the time prescribed for filing the  
 27 income tax return, determined without regard to any extension of time for filing the

1 return.

2 Section 492. KRS 141.235 is amended to read as follows:

3 (1) No suit shall be maintained in any court to restrain or delay the collection or  
4 payment of the tax levied by this chapter.

5 (2) Any tax collected pursuant to the provisions of this chapter may be refunded or  
6 credited in accordance with the provisions of KRS 134.580, except that:

7 (a) In any case where the assessment period contained in KRS 141.210 has been  
8 extended by an agreement between the taxpayer and the department~~[cabinet]~~,  
9 the limitation contained in this subsection shall be extended accordingly.

10 (b) If the claim for refund or credit relates directly to adjustments resulting from a  
11 federal audit, the taxpayer shall file a claim for refund or credit within the time  
12 provided for in this subsection or six (6) months from the conclusion of the  
13 federal audit, whichever is later.

14 (c) If the claim for refund or credit relates to an overpayment attributable to a net  
15 operating loss carryback or capital loss carryback, resulting from a loss which  
16 occurs in a taxable year beginning after December 31, 1993, the claim for  
17 refund or credit shall be filed within the times prescribed in this subsection for  
18 the taxable year of the net operating loss or capital loss which results in the  
19 carryback.

20 For the purposes of this subsection and subsection (3) of this section, a return filed  
21 before the last day prescribed by law for filing the return shall be considered as filed  
22 on the last day.

23 (3) Overpayments of taxes collected pursuant to KRS 141.300, 141.310, or 141.315  
24 shall be refunded or credited with interest at the tax interest rate as defined in KRS  
25 131.010(6). The interest shall not begin to accrue until ninety (90) days after the tax  
26 was paid, the return was filed, or the last day prescribed by law for filing the return,  
27 whichever is later.

1 (4) Exclusive authority to refund or credit overpayments of taxes collected pursuant to  
 2 this chapter is vested in the commissioner~~[secretary]~~ or his authorized agent.  
 3 Amounts directed to be refunded shall be paid out of the general fund.

4 Section 493. KRS 141.300 is amended to read as follows:

5 (1) Every individual shall, at the time prescribed in subsection (3), make a declaration  
 6 of his estimated tax for the taxable year if his gross income from sources other than  
 7 wages upon which Kentucky income tax will be withheld can reasonably be  
 8 expected to exceed five thousand dollars (\$5,000) for the taxable year and his gross  
 9 income or adjusted gross income can reasonably be expected to be an amount not  
 10 less than the amount for which a return is required under KRS 141.180. No  
 11 declaration of estimated tax shall be required if the estimated tax liability can  
 12 reasonably be expected to be five hundred dollars (\$500) or less.

13 (2) In the declaration required under subsection (1), the individual shall state:

14 (a) The amount which he estimates as the amount of tax under KRS 141.020 for  
 15 the taxable year;

16 (b) The amount which he estimates as the credits for the taxable year under KRS  
 17 141.310, 141.315, and 141.065;

18 (c) The excess of the amount estimated under paragraph (a) over the amount  
 19 estimated under paragraph (b), which excess for purposes of this chapter shall  
 20 be considered the estimated tax for the taxable year; and

21 (d) Other information as may be prescribed in administrative regulations  
 22 promulgated by the department~~[cabinet]~~.

23 (3) The declaration required under subsection (1) shall be filed with the  
 24 department~~[cabinet]~~ on or before April 15 of the taxable year, except that if the  
 25 requirements of subsection (1) are first met:

26 (a) After April 1 and before June 2 of the taxable year, the declaration shall be  
 27 filed on or before June 15 of the taxable year; or

- 1 (b) After June 1 and before September 2 of the taxable year, the declaration shall  
 2 be filed on or before September 15 of the taxable year; or
- 3 (c) After September 1 of the taxable year, the declaration shall be filed on or  
 4 before January 15 of the succeeding taxable year.
- 5 (4) An individual may amend a declaration filed during the taxable year under  
 6 subsection (3) pursuant to administrative regulations prescribed by the  
 7 department~~[cabinet]~~.
- 8 (5) If, on or before January 31 of the succeeding taxable year an individual files a return  
 9 for the taxable year for which the declaration is required and pays in full the amount  
 10 computed on the return as payable, then, under administrative regulations  
 11 prescribed by the department~~[cabinet]~~:
- 12 (a) If the declaration is not required to be filed during the taxable year, but is  
 13 required to be filed on or before January 15 of the taxable year, the return  
 14 shall, for the purposes of this section, be considered as the declaration; and
- 15 (b) If the tax shown on the return, reduced by the credits under KRS 141.350, is  
 16 greater than the estimated tax shown in a declaration previously made or, in  
 17 the last amendment thereof, the return shall, for the purposes of this section,  
 18 be considered as the amendment of the declaration permitted by subsection (4)  
 19 to be filed on or before January 15 of the taxable year.
- 20 (6) The department~~[cabinet]~~ shall promulgate administrative regulations governing  
 21 reasonable extensions of time for filing declarations and paying the estimated tax.  
 22 Except in the case of an individual who is abroad, no extension shall be for more  
 23 than six (6) months.
- 24 (7) If an individual is unable to make his own declaration, the declaration shall be made  
 25 by a duly authorized agent or by the guardian, conservator, or other person charged  
 26 with the care of the person or property of the individual.
- 27 (8) For the purposes of KRS 131.190, a declaration of estimated tax shall be held and

1 considered a return of income under this chapter.

2 Section 494. KRS 141.305 is amended to read as follows:

3 (1) The estimated tax provided for in KRS 141.300 shall be paid as follows:

4 (a) If the declaration is filed on or before April 15 of the taxable year, the  
5 estimated tax shall be paid in four (4) equal installments. The first installment  
6 shall be paid at the time of the filing of the declaration, the second and third  
7 on June 15 and September 15, respectively, of the taxable year, and the fourth  
8 on January 15 of the succeeding taxable year;

9 (b) If the declaration is filed after April 15 and not after June 15 of the taxable  
10 year and is not required by subsection (3) of KRS 141.300 to be filed on or  
11 before April 15 of the taxable year, the estimated tax shall be paid in three (3)  
12 equal installments. The first installment shall be paid at the time of the filing  
13 of the declaration, the second on September 15 of the taxable year, and the  
14 third on January 15 of the succeeding taxable year;

15 (c) If the declaration is filed after June 15 and not after September 15 of the  
16 taxable year and is not required by subsection (3) of KRS 141.300 to be filed  
17 on or before June 15 of the taxable year, the estimated tax shall be paid in two  
18 (2) equal installments. The first installment shall be paid at the time of the  
19 filing of the declaration and the second on January 15 of the succeeding  
20 taxable year;

21 (d) If the declaration is filed after September 15 of the taxable year, and is not  
22 required by subsection (3) of KRS 141.300 to be filed on or before September  
23 15 of the taxable year, the declaration shall be filed and estimated tax shall be  
24 paid on or before January 15 of the succeeding taxable year;

25 (e) If the declaration is filed after the time prescribed in KRS 141.300, including  
26 cases where extensions of time have been granted, paragraphs (b), (c), and (d)  
27 of this subsection shall not apply, and there shall be paid at the time of such

1 filing all installments of estimated tax which would have been payable on or  
2 before such time if the declaration has been filed within the time prescribed in  
3 subsection (3) of KRS 141.300, and the remaining installments shall be paid  
4 at the times at which, and in the amounts in which, they would have been  
5 payable if the declaration had been so filed. Provided, that payments required  
6 under this section for purposes of the taxable year 1954 shall be limited to  
7 fifty percent (50%) of the total estimated tax for 1954.

8 (2) If any amendment of a declaration is filed, the remaining installments, if any, shall  
9 be ratably increased or decreased as the case may be, to reflect the respective  
10 increase or decrease in the estimated tax by reason of such amendment, and if any  
11 amendment is made after September 15 of the taxable year any increase in the  
12 estimated tax by reasons thereof shall be paid at the time of making such  
13 amendment.

14 (3) At the election of the individual, any installment of the estimated tax may be paid  
15 prior to the date prescribed for its payment.

16 (4) Payment of the estimated tax, or any installment thereof, shall be considered  
17 payment on account of the tax for the taxable year. Assessment in respect of the  
18 estimated tax shall be limited to the amount paid.

19 (5) In the case of an individual whose estimated gross income from farming for the  
20 taxable year is at least two-thirds ( $2/3$ ) of the total estimated gross income from all  
21 sources for the taxable year, in lieu of the time prescribed in subsection (3) of KRS  
22 141.300, the declaration for the taxable year may be made at any time on or before  
23 January 15 of the succeeding taxable year; and if such an individual files a return on  
24 or before March 1 of the succeeding taxable year, and pays in full the amount  
25 computed on the return as payable, such return shall have the same effect as that  
26 prescribed in subsection (5) of KRS 141.300 in the case of a return filed on or  
27 before January 31.



1 (6) The application of this section and KRS 141.300 to taxable years of less than twelve  
 2 (12) months shall be as prescribed in administrative regulations promulgated by the  
 3 department~~[cabinet]~~.

4 (7) In the application of this section and KRS 141.300 to taxpayers reporting income on  
 5 a fiscal year basis, there shall be substituted for the date specified therein, the  
 6 months corresponding thereto.

7 Section 495. KRS 141.310 is amended to read as follows:

8 (1) Every employer making payment of wages on or after January 1, 1971, shall deduct  
 9 and withhold upon the wages a tax determined under KRS 141.315 or by the tables  
 10 authorized by KRS 141.370.

11 (2) If wages are paid with respect to a period which is not a payroll period, the amount  
 12 to be deducted and withheld shall be that applicable in the case of a miscellaneous  
 13 payroll period containing a number of days, including Sundays and holidays, equal  
 14 to the number of days in the period with respect to which the wages are paid.

15 (3) In any case in which wages are paid by an employer without regard to any payroll  
 16 period or other period, the amount to be deducted and withheld shall be that  
 17 applicable in the case of a miscellaneous payroll period containing a number of days  
 18 equal to the number of days, including Sundays and holidays, which have elapsed  
 19 since the date of the last payment of wages by the employer during the calendar  
 20 year, or the date of commencement of employment with the employer during the  
 21 year, or January 1 of the year, whichever is the later.

22 (4) In determining the amount to be deducted and withheld under this section, the  
 23 wages may, at the election of the employer, be computed to the nearest dollar.

24 (5) The tables mentioned in subsection (1) of this section take into consideration the  
 25 deductible federal income tax. If Congress changes substantially the federal income  
 26 tax, the department~~[cabinet]~~ shall make the change in these tables necessary to  
 27 compensate for any increase or decrease in the deductible federal income tax.

- 1 (6) The department~~[cabinet]~~ may permit the use of accounting machines to calculate  
 2 the proper amount to be deducted from wages when the calculation so permitted  
 3 produces substantially the same result set forth in the tables authorized by KRS  
 4 141.370. Prior approval of the calculation shall be secured from the  
 5 department~~[cabinet]~~ at least thirty (30) days before the first payroll period for which  
 6 it is to be used.
- 7 (7) The department~~[cabinet]~~ may, by regulations, authorize employers:
- 8 (a) To estimate the wages which will be paid to any employee in any quarter of  
 9 the calendar year;
- 10 (b) To determine the amount to be deducted and withheld upon each payment of  
 11 wages to the employee during the quarter as if the appropriate average of the  
 12 wages estimated constituted the actual wages paid; and
- 13 (c) To deduct and withhold upon any payment of wages to the employee during  
 14 the quarter the amount necessary to adjust the amount actually deducted and  
 15 withheld upon the wages of the employee during the quarter to the amount  
 16 that would be required to be deducted and withheld during the quarter if the  
 17 payroll period of the employee was quarterly.
- 18 (8) The department~~[cabinet]~~ may provide by regulation, under the conditions and to the  
 19 extent it deems proper, for withholding in addition to that otherwise required under  
 20 this section and KRS 141.315 in cases in which the employer and the employee  
 21 agree to the additional withholding. The additional withholding shall for all  
 22 purposes be considered tax required to be deducted and withheld under this chapter.
- 23 (9) Effective January 1, 1992, any employer required by this section to withhold  
 24 Kentucky income tax who assesses and withholds from employees the job  
 25 assessment fee provided in KRS 154.24-110 may offset a portion of the fee against  
 26 the Kentucky income tax required to be withheld from the employee under this  
 27 section. The amount of the offset shall be four-fifths (4/5) of the amount of the

- 1        assessment fee withheld from the employee or the Commonwealth's contribution of  
 2        KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply,  
 3        the offset, the offset shall be one hundred percent (100%) of the assessment.
- 4        (10) Any employer required by this section to withhold Kentucky income tax who  
 5        assesses and withholds from employees an assessment provided in KRS 154.22-070  
 6        or KRS 154.28-110 may offset the fee against the Kentucky income tax required to  
 7        be withheld from the employee under this section.
- 8        (11) Any employer required by this section to withhold Kentucky income tax who  
 9        assesses and withholds from employees the job assessment fee provided in KRS  
 10       154.26-100 may offset a portion of the fee against the Kentucky income tax  
 11       required to be withheld from the employee under this section. The amount of the  
 12       offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from  
 13       the employee, or if the agreement under KRS 154.26-090(1)(f)2. is consummated,  
 14       the offset shall be one hundred percent (100%) of the assessment fee.
- 15       (12) Any employer required by this section to withhold Kentucky income tax who  
 16       assesses and withholds from employees the job development assessment fee  
 17       provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky  
 18       income tax required to be withheld from the employee under this section. The  
 19       amount of the offset shall be equal to the Commonwealth's contribution as  
 20       determined by KRS 154.23-055(1) to (3).
- 21       (13) Any employer required by this section to withhold Kentucky income tax may be  
 22       required to post a bond with the department[~~cabinet~~]. The bond shall be a corporate  
 23       surety bond or cash. The amount of the bond shall be determined by the  
 24       department[~~cabinet~~], but shall not exceed fifty thousand dollars (\$50,000).
- 25       (14) The Commonwealth may bring an action for a restraining order or a temporary or  
 26       permanent injunction to restrain or enjoin the operation of an employer's business  
 27       until the bond is posted or the tax required to be withheld is paid or both. The action

1        may be brought in the Franklin Circuit Court or in the Circuit Court having  
2        jurisdiction of the defendant.

3        Section 496. KRS 141.315 is amended to read as follows:

4        If payment of wages is made to an employee by an employer:

- 5        (1) With respect to a payroll period or other period, any part of which is included in a  
6        payroll period or other period with respect to which wages are also paid to such  
7        employee by such employer, or
- 8        (2) Without regard to any payroll period or other period, but on or prior to the  
9        expiration of a payroll period or other period with respect to which wages are also  
10       paid to such employee by such employer; or
- 11       (3) With respect to a period beginning in one (1) and ending in another calendar year;  
12       or
- 13       (4) Through an agent, fiduciary, or other person who also has the control, receipt,  
14       custody, or disposal of, or pays, the wages payable by another employer to such  
15       employee, the manner of withholding and the amount to be deducted and withheld  
16       under KRS 141.310 shall be determined in accordance with regulations  
17       promulgated by the department~~cabinet~~ under which the withholding exemption  
18       allowed to the employee in any calendar year shall approximate the withholding  
19       exemption allowable with respect to an annual payroll period.

20       Section 497. KRS 141.325 is amended to read as follows:

- 21       (1) An employee receiving wages shall on any day be entitled to the following  
22       withholding exemptions:
- 23       (a) One (1) exemption for himself;
- 24       (b) One (1) exemption for each dependent for whom he would be entitled to a tax  
25       credit under the provisions of KRS 141.020(3)(c);
- 26       (c) If the employee is married, the exemption to which his spouse is entitled, or  
27       would be entitled if such spouse were an employee, under subparagraph (a) of

1           this subsection, but only if such spouse does not have in effect a withholding  
2           exemption certificate claiming such exemption;

3           (d) Such other withholding exemptions as the department~~[cabinet]~~ may prescribe  
4           by regulation.

5       (2) Every employee shall, on or before July 1, 1954, or before the date of  
6           commencement of employment, whichever is later, furnish his employer with a  
7           signed withholding exemption certificate relating to the number of withholding  
8           exemptions which he claims, which in no event shall exceed the number to which  
9           he is entitled.

10      (3) Withholding exemption certificates shall take effect as of the beginning of the first  
11           payroll period ending, or the first payment of wages made without regard to a  
12           payroll period, on or after the date on which such certificate is so furnished;  
13           provided, that certificates furnished before July 1, 1954, shall be considered as  
14           furnished on that date.

15      (4) A withholding exemption certificate which takes effect under this section shall  
16           continue in effect with respect to the employer until another such certificate takes  
17           effect under this section. If a withholding exemption certificate is furnished to take  
18           the place of an existing certificate, the employer, at his option, may continue the old  
19           certificate in force with respect to all wages paid on or before the first status  
20           determination date, January 1 or July 1, which occurs at least thirty (30) days after  
21           the date on which such new certificate is furnished.

22      (5) If, on any day during the calendar year, the number of withholding exemptions to  
23           which the employee may reasonably be expected to be entitled at the beginning of  
24           his next taxable year is different from the number to which the employee is entitled  
25           on such day, the employee shall in such cases and at such time as the  
26           department~~[cabinet]~~ may prescribe, furnish the employer with a withholding  
27           exemption certificate relating to the number of exemptions which he claims with

1 respect to such next taxable year, which shall in no event exceed the number to  
 2 which he may reasonably be expected to be so entitled. Exemption certificates  
 3 issued pursuant to this subsection shall not take effect with respect to any payment  
 4 of wages made in the calendar year in which the certificate is furnished.

- 5 (6) If, on any day during the calendar year, the number of withholding exemptions to  
 6 which the employee is entitled is less than the number of withholding exemptions  
 7 claimed by the employee on the withholding exemption certificate then in effect  
 8 with respect to him, the employee shall, within ten (10) days thereafter, furnish the  
 9 employer with a new withholding exemption certificate relating to the number of  
 10 withholding exemptions which the employee then claims, which shall in no event  
 11 exceed the number to which he is entitled on such day. If, on any day during the  
 12 calendar year, the number of withholding exemptions to which the employee is  
 13 entitled is greater than the number of withholding exemptions claimed, the  
 14 employee may furnish the employer with a new withholding exemption certificate  
 15 relating to the number of withholding exemptions which the employee then claims,  
 16 which shall in no event exceed the number to which he is entitled on such day.

- 17 (7) Withholding exemption certificates shall be in such form and contain such  
 18 information as the department~~[cabinet]~~ may by regulations prescribe.

19 Section 498. KRS 141.330 is amended to read as follows:

- 20 (1) Every employer required to deduct and withhold tax under KRS 141.310 and  
 21 141.315 shall, for the quarterly period beginning on the first day of January of each  
 22 year, and for each quarterly period thereafter, on or before the last day of the month  
 23 following the close of each quarterly period make a return and report to the  
 24 department~~[cabinet]~~ the tax required to be withheld under KRS 141.310 and  
 25 141.315, unless the employer is permitted or required to report monthly or annually.  
 26 Such employer shall, on or before the last day of the month following the close of  
 27 each quarterly period, pay over to the department~~[cabinet]~~ the tax required to be

1 withheld under KRS 141.310 and 141.315; Provided, however, That the  
 2 department~~[cabinet]~~ may, by regulations, require employers to remit the tax  
 3 withheld under KRS 141.310 and 141.315 within a reasonable time after the payroll  
 4 period or other period. A return shall be filed by every employer making payment of  
 5 wages even though no tax has been withheld.

6 (2) If the department~~[cabinet]~~, in any case, has reason to believe that the collection of  
 7 the tax provided for in subsection (1) of this section is in jeopardy, it may require  
 8 the employer to make such return and pay such tax at any time.

9 (3) Every employer, who fails to withhold or pay to the department~~[cabinet]~~ any sums  
 10 required by this chapter to be withheld and paid, shall be personally and  
 11 individually liable therefor to the Commonwealth; and any sum or sums withheld in  
 12 accordance with the provisions of KRS 141.310 and 141.315 shall be deemed to be  
 13 held in trust for the Commonwealth.

14 (4) The Commonwealth shall have a lien upon all the property of any employer who  
 15 fails to withhold or pay over to the department~~[cabinet]~~ sums required to be  
 16 withheld under KRS 141.310 and 141.315. If the employer withholds but fails to  
 17 pay the amounts withheld to the department~~[cabinet]~~, the lien shall accrue as of the  
 18 date the amounts withheld were required to be paid to the department~~[cabinet]~~. If  
 19 the employer fails to withhold, the lien shall accrue at the time the liability of the  
 20 employer becomes fixed.

21 Section 499. KRS 141.335 is amended to read as follows:

22 (1) Every person required to deduct and withhold from an employee a tax under KRS  
 23 141.310 or 141.315, or who would have been required to deduct and withhold a tax  
 24 under KRS 141.310 or 141.315 if the employee had claimed no more than one (1)  
 25 withholding exemption, shall furnish to each such employee in respect of the  
 26 remuneration paid by such person to such employee during the calendar year, on or  
 27 before January 31 of the succeeding year, or, if his employment is terminated before

1 the close of such calendar year, on the day on which the last payment of  
2 remuneration is made, a written statement showing the following:

- 3 (a) the name of such person;
- 4 (b) the name of the employee and his social security account number;
- 5 (c) the total amount of wages as defined in KRS 141.010; and
- 6 (d) the total amount deducted and withheld as tax under KRS 141.310 and  
7 141.315.

8 (2) The statement required to be furnished by this section in respect of any wages shall  
9 be furnished at such other times, shall contain such other information, and shall be  
10 in such form as the department~~[cabinet]~~ may by regulations prescribe. A duplicate  
11 of such statement if made and filed in accordance with regulations prescribed by the  
12 department~~[cabinet]~~ shall constitute the return required to be made in respect of  
13 such wages under KRS 141.150.

14 (3) The department~~[cabinet]~~ may promulgate regulations providing for reasonable  
15 extensions of time, not in excess of thirty (30) days, to employers required to  
16 furnish statements under this section.

17 Section 500. KRS 141.345 is amended to read as follows:

18 (1) Where there has been an overpayment of tax under KRS 141.310 or 141.315, refund  
19 or credit shall be made to the employer only to the extent that the amount of such  
20 overpayment was not deducted and withheld under KRS 141.310 or 141.315 by the  
21 employer.

22 (2) Unless written application for refund or credit is received by the  
23 department~~[cabinet]~~ from the employer within four (4) years from the date the  
24 overpayment was made, no refund or credit shall be allowed.

25 Section 501. KRS 141.347 is amended to read as follows:

26 (1) As used in this section, unless the context requires otherwise:

- 27 (a) "Approved company" shall have the same meaning as set forth in KRS



1           154.22-010;

2           (b) "Economic development project" shall have the same meaning as set forth in  
3           KRS 154.22-010;

4           (c) "Tax credit" means the "tax credit" allowed in KRS 154.22-010 to 154.22-  
5           070.

6       (2) An approved company shall determine the income tax credit as provided in this  
7       section.

8       (3) An approved company which is an individual sole proprietorship subject to tax  
9       under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a  
10      limited liability company treated as a corporation for federal income tax purposes  
11      shall:

12      (a) Compute the income tax due at the applicable tax rates as provided by KRS  
13      141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable  
14      net income as defined by KRS 141.010(14), including income from an  
15      economic development project; and

16      (b) Compute the income tax due at the applicable tax rates as provided by KRS  
17      141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable  
18      net income as defined by KRS 141.010(14), excluding net income attributable  
19      to an economic development project.

20      (c) The tax credit shall be the amount by which the tax computed under paragraph  
21      (a) of this subsection exceeds the tax computed under paragraph (b) of this  
22      subsection; however, the credit shall not exceed the limits set forth in KRS  
23      154.22-050.

24      (4) (a) Notwithstanding any other provisions of this chapter, an approved company  
25      which is an S-corporation, partnership, registered limited liability partnership,  
26      limited liability company treated as a partnership for federal income tax  
27      purposes, or trust shall be subject to income tax on the net income attributable

- 1 to an economic development project at the rates provided in KRS 141.020(2).
- 2 (b) The amount of the tax credit shall be the same as the amount of the tax  
3 computed in this subsection or, upon the annual election of the approved  
4 company, in lieu of the tax credit, an amount shall be applied as an estimated  
5 tax payment equal to the tax computed in this section. Any estimated tax  
6 payment made pursuant to this paragraph shall be in satisfaction of the tax  
7 liability of the shareholders, partners, members, or beneficiaries of the S-  
8 corporation, partnership, registered limited liability partnership, limited  
9 liability company, or trust, and shall be paid on behalf of the shareholders,  
10 partners, members, or beneficiaries.
- 11 (c) The tax credit or estimated payment shall not exceed the limits set forth in  
12 KRS 154.22-050.
- 13 (d) If the tax computed in this section exceeds the credit, the excess shall be paid  
14 by the S-corporation, partnership, registered limited liability partnership,  
15 limited liability company, or trust at the times provided by KRS 141.160 for  
16 filing the returns.
- 17 (e) Any estimated tax payment made by the S-corporation, partnership, registered  
18 limited liability partnership, limited liability company, or trust in satisfaction  
19 of the tax liability of shareholders, partners, members, or beneficiaries shall  
20 not be treated as taxable income subject to Kentucky income tax by the  
21 shareholder, partner, member, or beneficiary.
- 22 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,  
23 the tax credit, and the estimated tax payment determined under subsection (4) of  
24 this section shall be excluded in determining each shareholder's, partner's,  
25 member's, or beneficiaries' distributive share of net income or credit of an S-  
26 corporation, partnership, registered limited liability partnership, limited liability  
27 company, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue~~[Cabinet]~~.

(8) If an approved company can show to the satisfaction of the Department of Revenue~~[Cabinet]~~ that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Department of Revenue~~[Cabinet]~~.

(9) The Department of Revenue~~[Cabinet]~~ may issue administrative regulations and require the filing of forms designed by the Department of Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.22-020 to 154.22-070 and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070.

Section 502. KRS 141.370 is amended to read as follows:

The tax levied under KRS 141.020 and required to be withheld under KRS 141.310,

1 unless determined by KRS 141.315, shall be withheld in accordance with the tables  
2 provided in regulations promulgated by the department~~cabinet~~.

3 Section 503. KRS 141.380 is amended to read as follows:

- 4 (1) There shall be allowed as a credit against the taxes imposed by KRS 141.020 and  
5 141.040 an amount equal to fifteen percent (15%) of the expenditures, including  
6 installation cost, but excluding any finance charges, for qualifying energy property  
7 installed on premises in Kentucky which are owned or controlled by the taxpayer.  
8 The maximum credit which may be claimed by any taxpayer shall be fifteen  
9 hundred dollars (\$1,500) during the period specified in subsection (13) of this  
10 section. A system or component or piece of equipment shall not be eligible more  
11 than once for the credit provided in this section.
- 12 (2) The credit in this section may be claimed for the taxable year in which the  
13 installation is completed. The credit may be claimed only for expenditures made  
14 during the taxable year for which the credit is claimed or during the immediately  
15 preceding taxable year, but not for expenditures made before January 1, 1983.
- 16 (3) In the case of a husband and wife who file separate returns, the credit may be taken  
17 by either, or divided equally, but the combined credit shall not exceed fifteen  
18 hundred dollars (\$1,500).
- 19 (4) In the case of a partnership, of which one (1) or more of the partners are liable for  
20 the tax imposed under KRS 141.020, the amount of the credit each partner may  
21 claim shall be allocated in the same ratio as profits and losses are shared in the  
22 partnership, but the combined credit shall not exceed fifteen hundred dollars  
23 (\$1,500).
- 24 (5) A builder who installs qualifying energy property in a building constructed for  
25 resale may elect himself to claim the credit allowed in this section, or may provide  
26 the purchaser with necessary documentation or certification so that the purchaser  
27 may claim the credit. The credit shall not be claimed by both the builder and the

1 purchaser.

2 (6) In the case where the credit allowed in this section exceeds the tax due for the  
3 taxable year, that portion of the credit which exceeds the tax due may be carried  
4 over to the succeeding taxable years until the allowable credit has been fully  
5 exhausted, or until the credit has been claimed for three (3) successive years,  
6 whichever comes first.

7 (7) This tax credit shall not apply to trusts or estates.

8 (8) Before any tax credit can be claimed under the provisions of this section, the  
9 Natural Resources and Environmental Protection Cabinet must certify that the  
10 taxpayer's system is a viable system for using solar, wind or geothermal energy and  
11 documentation must be provided that the system has been completely installed. Any  
12 fee charged by the Natural Resources and Environmental Protection Cabinet for  
13 review and certification of a system shall not exceed ten dollars (\$10).

14 (9) The Natural Resources and Environmental Protection Cabinet may promulgate such  
15 rules and regulations as necessary to maintain commonly accepted energy  
16 equipment standards, to effectively conform to the definition of qualifying energy  
17 property in KRS 141.375 and to administer the certification requirements in this  
18 section. The regulations, including those describing the application procedure, shall  
19 be written in nontechnical language understandable to lay citizens untrained in  
20 engineering, architecture, or other technical fields.

21 (10) With the exception of the certification requirements delegated to the Natural  
22 Resources and Environmental Protection Cabinet by this section, the Department of  
23 Revenue~~[-Cabinet]~~ may promulgate such rules and regulations as necessary to  
24 effectively administer the requirements of KRS 141.375 and this section.

25 (11) All regulations necessary to implement KRS 141.375 and this section shall be filed  
26 with the Legislative Research Commission in accordance with KRS Chapter 13A by  
27 September 1, 1984.

(12) The Department of Revenue~~[Cabinet]~~ shall report as to the impact of KRS 141.375 and this section to the 1986 General Assembly and to the appropriate interim committee preceding the 1986 General Assembly. The report shall include the number and amount of the qualifying energy credits claimed, an estimate of the distribution by income group, the net revenue gain or loss to the Commonwealth attributable to the credits, and such other information as the Department of Revenue~~[Cabinet]~~ deems pertinent to an analysis of KRS 141.375 and this section.

(13) The provisions of KRS 141.375 and this section shall apply to the taxable years beginning on or after January 1, 1984, and ending on or before December 31, 1986, and no credit shall be allowed for any taxable year ending after December 31, 1986.

Section 504. KRS 141.390 is amended to read as follows:

(1) As used in this section:

(a) "Postconsumer waste" means any product generated by a business or consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste;

(b) "Recycling equipment" means any machinery or apparatus used exclusively to process postconsumer waste material and manufacturing machinery used exclusively to produce finished products composed of substantial postconsumer waste materials; and

(c) "Composting equipment" means equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner.

(2) A taxpayer who purchases recycling or composting equipment to be used

exclusively within this state for recycling or composting postconsumer waste materials shall be entitled to a credit against the income taxes imposed pursuant to this chapter, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. The amount of credit claimed in the tax year during which the recycling equipment is purchased shall not exceed ten percent (10%) of the amount of the total credit allowable and shall not exceed twenty-five percent (25%) of the total of each tax liability which would be otherwise due.

(3) Application for a tax credit shall be made to the Department of Revenue~~[Cabinet]~~ on or before July 1 of the year following the calendar year in which the recycling or composting equipment is purchased. The application shall include a description of each item of recycling equipment purchased, the date of purchase and the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used, and any other information as the Department of Revenue~~[Cabinet]~~ may require. The Department of Revenue~~[Cabinet]~~ shall review all applications received to determine whether expenditures for which credits are required meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section.

Section 505. KRS 141.400 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
  - (a) "Approved company" shall have the same meaning as set forth in KRS 154.28-010;
  - (b) "Economic development project" shall have the same meaning as set forth in KRS 154.28-010; and
  - (c) "Tax credit" means the "tax credit" allowed in KRS 154.28-090.
- (2) An approved company shall determine the income tax credit as provided in this section.
- (3) An approved company which is an individual sole proprietorship subject to tax

1 under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a  
2 limited liability company treated as a corporation for federal income tax purposes  
3 shall:

4 (a) Compute the income tax due at the applicable tax rates as provided by KRS  
5 141.020 or 141.040, on net income as defined by KRS 141.010(11), or taxable  
6 net income as defined by KRS 141.010(14), including income from an  
7 economic development project;

8 (b) Compute the income tax due at the applicable tax rates as provided by KRS  
9 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable  
10 net income as defined by KRS 141.010(14), excluding net income attributable  
11 to an economic development project; and

12 (c) The tax credit shall be the amount by which the tax computed under paragraph  
13 (a) of this subsection exceeds the tax computed under paragraph (b) of this  
14 subsection; however, the credit shall not exceed the limits set forth in KRS  
15 154.28-090.

16 (4) (a) Notwithstanding any other provisions of this chapter, an approved company  
17 which is an S-corporation, partnership, registered limited liability partnership,  
18 trust, or limited liability company treated as a partnership for federal income  
19 tax purposes shall be subject to income tax on the net income attributable to  
20 an economic development project at the rates provided in KRS 141.020(2).

21 (b) The amount of the tax credit shall be the same as the amount of the tax  
22 computed in this subsection or, upon the annual election of the approved  
23 company, in lieu of the tax credit, an amount shall be applied as an estimated  
24 tax payment equal to the tax computed in this section. Any estimated tax  
25 payment made pursuant to this paragraph shall be in satisfaction of the tax  
26 liability of the shareholders, partners, members, or beneficiaries of the S-  
27 corporation, partnership, registered limited liability partnership, limited



1 liability company, or trust, and shall be paid on behalf of the shareholders,  
2 partners, members, or beneficiaries.

3 (c) The tax credit or estimated payment shall not exceed the limits set forth in  
4 KRS 154.28-090.

5 (d) If the tax computed in this section exceeds the credit, the excess shall be paid  
6 by the S-corporation, partnership, registered limited liability partnership,  
7 limited liability company, or trust at the times provided by KRS 141.160 for  
8 filing the returns.

9 (e) Any estimated tax payment made by the S-corporation, partnership, registered  
10 limited liability partnership, limited liability company, or trust in satisfaction  
11 of the tax liability of shareholders, partners, members, or beneficiaries shall  
12 not be treated as taxable income subject to Kentucky income tax by the  
13 shareholder, partner, member, or beneficiary.

14 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,  
15 the tax credit, and the estimated tax payment determined under subsection (4) of  
16 this section shall be excluded in determining each shareholder's, partner's,  
17 member's, or beneficiaries' distributive share of net income or credit of an S-  
18 corporation, partnership, registered limited liability partnership, limited liability  
19 company, or trust.

20 (6) If the economic development project is a totally separate facility, net income  
21 attributable to the project for the purposes of subsections (3), (4), and (5) of this  
22 section shall be determined under the separate accounting method reflecting only  
23 the gross income, deductions, expenses, gains, and losses allowed under this chapter  
24 directly attributable to the facility and overhead expenses apportioned to the facility.

25 (7) If the economic development project is an expansion to a previously existing  
26 facility, net income attributable to the entire facility shall be determined under the  
27 separate accounting method reflecting only the gross income, deductions, expenses,

gains, and losses allowed under this chapter directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Department of Revenue~~[Cabinet]~~.

(8) If an approved company can show to the satisfaction of the Department of Revenue~~[Cabinet]~~ that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Department of Revenue~~[Cabinet]~~.

(9) The Department of Revenue~~[Cabinet]~~ may issue administrative regulations and require the filing of forms designed by the Department of Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section and the allowable income tax credit which an approved company may retain under KRS 154.22-020 to 154.22-070 and KRS 154.28-010 to 154.28-090 and this section.

Section 506. KRS 141.401 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 154.23-010;

(b) "Economic development project" shall have the same meaning as set forth in KRS 154.23-010; and

(c) "Tax credit" means the "tax credit" allowed under KRS 154.23-005 to 154.23-079.

- 1 (2) An approved company shall determine the income tax credit as provided in this  
2 section.
- 3 (3) An approved company that is an individual sole proprietorship subject to tax under  
4 KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a limited  
5 liability company treated as a corporation for federal income tax purposes shall:
- 6 (a) Compute the income tax due at the applicable tax rates as provided by KRS  
7 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable  
8 net income as defined by KRS 141.010(14), including income from an  
9 economic development project; and
- 10 (b) Compute the income tax due at the applicable tax rates as provided by KRS  
11 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable  
12 net income as defined by KRS 141.010(14), excluding net income attributable  
13 to an economic development project.
- 14 (c) The tax credit shall be the amount by which the tax computed under paragraph  
15 (a) of this subsection exceeds the tax computed under paragraph (b) of this  
16 subsection; however, the credit shall not exceed the limits set forth in KRS  
17 154.23-005 to 154.23-079.
- 18 (4) Notwithstanding any other provisions of this chapter, an approved company that is  
19 an S-corporation, partnership, registered limited liability partnership, limited  
20 liability company treated as a partnership for federal income tax purposes, or trust  
21 shall be subject to income tax on the net income attributable to an economic  
22 development project at the rates provided in KRS 141.020(2), as follows:
- 23 (a) The amount of the tax credit shall be the same as the amount of the tax  
24 computed in this subsection or, upon the annual election of the approved  
25 company, in lieu of the tax credit, an amount shall be applied as an estimated  
26 tax payment equal to the tax computed in this section. Any estimated tax  
27 payment made in this paragraph shall be in satisfaction of the tax liability of

1 the shareholders, partners, members, or beneficiaries of the S-corporation,  
2 partnership, registered limited liability partnership, limited liability company,  
3 or trust, and shall be paid on behalf of the shareholders, partners, members, or  
4 beneficiaries.

5 (b) The tax credit or estimated payment shall not exceed the limits set forth in  
6 KRS 154.23-005 to 154.23-079.

7 (c) If the tax computed in this section exceeds the credit, the excess shall be paid  
8 by the S-corporation, partnership, registered limited liability partnership,  
9 limited liability company, or trust at the times provided by KRS 141.160 for  
10 filing the returns.

11 (d) Any estimated tax payment made by the S-corporation, partnership, registered  
12 limited liability partnership, limited liability company, or trust in satisfaction  
13 of the tax liability of shareholders, partners, members, or beneficiaries shall  
14 not be treated as taxable income subject to Kentucky income tax by the  
15 shareholder, partner, member, or beneficiary.

16 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,  
17 the tax credit, and the estimated tax payment determined under subsection (4) of  
18 this section shall be excluded in determining each shareholder's, partner's,  
19 member's, or beneficiary's distributive share of net income or credit of an S-  
20 corporation, partnership, registered limited liability partnership, limited liability  
21 company, or trust.

22 (6) If the economic development project is a totally separate facility, net income  
23 attributable to the project for the purposes of subsections (3), (4), and (5) of this  
24 section shall be determined under the separate accounting method reflecting only  
25 the gross income, deductions, expenses, gains, and losses allowed under this chapter  
26 directly attributable to the facility and overhead expenses apportioned to the facility.

27 (7) If the economic development project is an expansion to a previously existing

1 facility, net income attributable to the entire facility shall be determined under the  
 2 separate accounting method reflecting only the gross income, deductions, expenses,  
 3 gains, and losses allowed under this chapter directly attributable to the facility, and  
 4 the net income attributable to the economic development project for the purposes of  
 5 subsections (3), (4), and (5) of this section shall be determined by apportioning the  
 6 separate accounting net income of the entire facility to the economic development  
 7 project by a formula approved by the Department of Revenue~~[Cabinet]~~.

8 (8) If an approved company can show to the satisfaction of the Department of  
 9 Revenue~~[Cabinet]~~ that the nature of the operations and activities of the approved  
 10 company are such that it is not practical to use the separate accounting method to  
 11 determine the net income from the facility at which the economic development  
 12 project is located, the approved company shall determine net income from the  
 13 economic development project using an alternative method approved by the  
 14 Department of Revenue~~[Cabinet]~~.

15 (9) The Department of Revenue~~[Cabinet]~~ may issue administrative regulations and  
 16 require the filing of forms designed by the Department of Revenue~~[Cabinet]~~ to  
 17 reflect the intent of KRS 154.23-005 to 154.23-079 and the allowable income tax  
 18 credit that an approved company may retain under KRS 154.23-005 to 154.23-079.

19 Section 507. KRS 141.403 is amended to read as follows:

20 (1) As used in this section, unless the context requires otherwise:

21 (a) "Approved company" shall have the same meaning as set forth in KRS  
 22 154.26-010;

23 (b) "Economic revitalization project" shall have the same meaning as set forth in  
 24 KRS 154.26-010;

25 (c) "Tax credit" means the tax credit allowed in KRS 154.26-090.

26 (2) An approved company shall determine the income tax credit as provided in this  
 27 section.

- 1 (3) An approved company which is an individual sole proprietorship subject to tax  
 2 under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a  
 3 limited liability company treated as a corporation for federal income tax purposes  
 4 shall:
- 5 (a) Compute the income tax due at the applicable tax rates as provided by KRS  
 6 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable  
 7 net income as defined by KRS 141.010(14), including income from an  
 8 economic revitalization project;
- 9 (b) Compute the income tax due at the applicable tax rates as provided by KRS  
 10 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable  
 11 net income as defined by KRS 141.010(14), excluding net income attributable  
 12 to an economic revitalization project; and
- 13 (c) The tax credit shall be the amount by which the tax computed under paragraph  
 14 (a) of this subsection exceeds the tax computed under paragraph (b) of this  
 15 subsection; however, the credit shall not exceed the limits set forth in KRS  
 16 154.26-090.
- 17 (4) (a) Notwithstanding any other provisions of this chapter, an approved company  
 18 which is an S-corporation, partnership, registered limited liability partnership,  
 19 limited liability company treated as a partnership for federal income tax  
 20 purposes, or trust shall be subject to income tax on the net income attributable  
 21 to an economic revitalization project at the rates provided in KRS 141.020(2).
- 22 (b) The amount of the tax credit shall be the same as the amount of the tax  
 23 computed in this subsection or, upon the annual election of the approved  
 24 company, in lieu of the tax credit, an amount shall be applied as an estimated  
 25 tax payment equal to the tax computed in this section. Any estimated tax  
 26 payment made pursuant to this paragraph shall be in satisfaction of the tax  
 27 liability of the shareholders, partners, members, or beneficiaries of the S-

1 corporation, partnership, registered limited liability partnership, limited  
2 liability company, or trust, and shall be paid on behalf of the shareholders,  
3 partners, members, or beneficiaries.

4 (c) The tax credit or estimated payment shall not exceed the limits set forth in  
5 KRS 154.26-090.

6 (d) If the tax computed in this section exceeds the tax credit, the difference shall  
7 be paid by the S-corporation, partnership, registered limited liability  
8 partnership, limited liability company, or trust at the times provided by KRS  
9 141.160 for filing the returns.

10 (e) Any estimated tax payment made by the S-corporation, partnership, registered  
11 limited liability partnership, limited liability company, or trust in satisfaction  
12 of the tax liability of shareholders, partners, members, or beneficiaries shall  
13 not be treated as taxable income subject to Kentucky income tax by the  
14 shareholder, partner, member, or beneficiary.

15 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,  
16 the tax credit, and the estimated tax payment determined under subsection (4) of  
17 this section shall be excluded in determining each shareholder's, partner's,  
18 member's, or beneficiaries' distributive share of net income or credit of an S-  
19 corporation, partnership, registered limited liability partnership, limited liability  
20 company, or trust.

21 (6) If the economic development project is a totally separate facility, net income  
22 attributable to the project for the purposes of subsections (3), (4), and (5) of this  
23 section shall be determined under the separate accounting method reflecting only  
24 the gross income, deductions, expenses, gains, and losses allowed under KRS  
25 Chapter 141 directly attributable to the facility and overhead expenses apportioned  
26 to the facility.

27 (7) If the economic development project is an expansion to a previously existing

1 facility, net income attributable to the entire facility shall be determined under the  
 2 separate accounting method reflecting only the gross income, deductions, expenses,  
 3 gains, and losses allowed under KRS Chapter 141 directly attributable to the facility  
 4 and overhead expenses apportioned to the facility, and the net income attributable to  
 5 the economic development project for the purposes of subsections (3), (4), and (5)  
 6 of this section shall be determined by apportioning the separate accounting net  
 7 income of the entire facility to the economic development project by a formula  
 8 approved by the Department of Revenue~~[Cabinet]~~.

9 (8) If an approved company can show to the satisfaction of the Department of  
 10 Revenue~~[Cabinet]~~ that the nature of the operations and activities of the approved  
 11 company are such that it is not practical to use the separate accounting method to  
 12 determine the net income from the facility at which the economic development  
 13 project is located, the approved company shall determine net income from the  
 14 economic development project using an alternative method approved by the  
 15 Department of Revenue~~[Cabinet]~~.

16 (9) The Department of Revenue~~[Cabinet]~~ may issue administrative regulations and  
 17 require the filing of forms designed by the Department of Revenue~~[Cabinet]~~ to  
 18 reflect the intent of KRS 154.26-010 to 154.26-100 and the allowable income tax  
 19 credit which an approved company may retain under KRS 154.26-010 to 154.26-  
 20 100.

21 Section 508. KRS 141.405 is amended to read as follows:

22 (1) As used in this section, unless the context requires otherwise:

- 23 (a) "Approved company" has the same meaning as set forth in KRS 154.12-2084;
- 24 and
- 25 (b) "Skills training investment credit" has the same meaning as set forth in KRS
- 26 154.12-2084.

27 (2) An approved company shall determine the income tax credit as provided in this



1 section.

- 2 (3) (a) An approved company which is an individual sole proprietorship subject to  
 3 tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1)  
 4 shall compute the income tax due at the applicable tax rates as provided by  
 5 KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11), or  
 6 taxable net income as defined by KRS 141.010(14);
- 7 (b) The amount of the skills training investment credit that the Bluegrass State  
 8 Skills Corporation has given final approval for under KRS 154.12-2088(6)  
 9 shall be applied against the amount of the tax computed under paragraph (a)  
 10 of this subsection; and
- 11 (c) The skills training investment credit payment shall not exceed the amount of  
 12 the final approval awarded by the Bluegrass State Skills Corporation under  
 13 KRS 154.12-2088(6).
- 14 (4) (a) In the case of an approved company which is an S-corporation or partnership  
 15 the amount of the tax credit awarded by the Bluegrass State Skills Corporation  
 16 in KRS 154.12-2088(6) shall be apportioned among the shareholders or  
 17 partners thereof at the same ratio as the shareholders' or partners' distributive  
 18 shares of income are determined for the tax year during which the final  
 19 authorization resolution is adopted by the Bluegrass State Skills Corporation  
 20 in KRS 154.12-2088(6).
- 21 (b) The amount of the tax credit apportioned to each shareholder or partner that  
 22 may be claimed in any tax year of the shareholder or partner shall be  
 23 determined in accordance with the provisions of KRS 154.12-2086.
- 24 (5) (a) In the case of an approved company that is a trust, the amount of the tax credit  
 25 awarded by the Bluegrass State Skills Corporation in KRS 154.12-2088(6)  
 26 shall be apportioned to the trust and the beneficiaries on the basis of the  
 27 income of the trust allocable to each for the tax year during which the final

1 authorizing resolution is adopted by the Bluegrass State Skills Corporation in  
2 KRS 154.12-2088(6).

3 (b) The amount of tax credit apportioned to each trust or beneficiary that may be  
4 claimed in any tax year of the trust or beneficiary shall be determined in  
5 accordance with the provisions of KRS 154.12-2086.

6 (6) The Department of Revenue~~[Cabinet]~~ may promulgate administrative regulations  
7 in accordance with KRS Chapter 13A adopting forms and procedures for the  
8 reporting of the credit allowed in KRS 154.12-2084 to 154.12-2089.

9 Section 509. KRS 141.407 is amended to read as follows:

10 (1) As used in this section, unless the context requires otherwise:

11 (a) "Approved company" shall have the same meaning as set forth in KRS  
12 154.24-010;

13 (b) "Economic development project" shall have the same meaning as economic  
14 development project as set forth in KRS 154.24-010;

15 (c) "Tax credit" means the tax credit allowed in KRS 154.24-020 to 154.24-150.

16 (2) An approved company shall determine the income tax credit as provided in this  
17 section.

18 (3) An approved company which is an individual sole proprietorship subject to tax  
19 under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or a  
20 limited liability company treated as a corporation for federal income tax purposes  
21 shall:

22 (a) Compute the income tax due at the applicable tax rates as provided by KRS  
23 141.020 or 141.040 on net income as defined by KRS 141.010(11), or taxable  
24 net income as defined by KRS 141.010(14), including income from an  
25 economic development project;

26 (b) Compute the income tax due at the applicable tax rates as provided by KRS  
27 141.020 or 141.040 on net income as defined by KRS 141.010(11), or taxable

- 1 net income as defined by KRS 141.010(14), excluding net income attributable  
2 to an economic development project; and
- 3 (c) The tax credit shall be the amount by which the tax computed under paragraph  
4 (a) of this subsection exceeds the tax computed under paragraph (b) of this  
5 subsection; however, the credit shall not exceed the limits set forth in KRS  
6 154.24-020 to 154.24-150.
- 7 (4) (a) Notwithstanding any other provisions of this chapter, an approved company  
8 which is an S-corporation, partnership, registered limited liability partnership,  
9 limited liability company treated as a partnership for federal income tax  
10 purposes, or trust shall be subject to income tax on the net income attributable  
11 to an economic development project at the rates provided in KRS 141.020(2).
- 12 (b) The amount of the tax credit shall be the same as the amount of the tax  
13 computed in this subsection or, upon the annual election of the approved  
14 company, in lieu of the tax credit, an amount shall be applied as an estimated  
15 tax payment equal to the tax computed in this section. Any estimated tax  
16 payment made pursuant to this paragraph shall be in satisfaction of the tax  
17 liability of the shareholders, partners, members, or beneficiaries of the S-  
18 corporation, partnership, registered limited liability partnership, limited  
19 liability company, or trust, and shall be paid on behalf of the shareholders,  
20 partners, members, or beneficiaries.
- 21 (c) The tax credit or estimated payment shall not exceed the limits set forth in  
22 KRS 154.24-020 to 154.24-150.
- 23 (d) If the tax computed herein exceeds the credit, the excess shall be paid by the  
24 S-corporation, partnership, registered limited liability partnership, limited  
25 liability company, or trust at the times provided by KRS 141.160 for filing the  
26 returns.
- 27 (e) Any estimated tax payment made by the S-corporation, partnership, or trust in

1 satisfaction of the tax liability of shareholders, partners, members, or  
2 beneficiaries shall not be treated as taxable income subject to Kentucky  
3 income tax by the shareholder, partner, member, or beneficiary.

4 (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,  
5 the tax credit, and the estimated tax payment determined under subsection (4) of  
6 this section shall be excluded in determining each shareholder's, partner's,  
7 member's, or beneficiaries' distributive share of net income or credit of an S-  
8 corporation, partnership, registered limited liability partnership, limited liability  
9 company, or trust.

10 (6) If the economic development project is a totally separate facility, net income  
11 attributable to the project for the purposes of subsections (3), (4), and (5) of this  
12 section shall be determined under the separate accounting method reflecting only  
13 the gross income, deductions, expenses, gains, and losses allowed under KRS  
14 Chapter 141 directly attributable to the facility and overhead expenses apportioned  
15 to the facility.

16 (7) If the economic development project is an expansion to a previously existing  
17 facility, net income attributable to the entire facility shall be determined under the  
18 separate accounting method reflecting only the gross income, deductions, expenses,  
19 gains, and losses allowed under KRS Chapter 141 directly attributable to the facility  
20 and overhead expenses apportioned to the facility, and the net income attributable to  
21 the economic development project for the purposes of subsections (3), (4), and (5)  
22 of this section shall be determined by apportioning the separate accounting net  
23 income of the entire facility to the economic development project by a formula  
24 approved by the Department of Revenue~~[Cabinet]~~.

25 (8) If an approved company can show to the satisfaction of the Department of  
26 Revenue~~[Cabinet]~~ that the nature of the operations and activities of the approved  
27 company are such that it is not practical to use the separate accounting method to

determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Department of Revenue~~[Cabinet]~~.

- (9) The Department of Revenue~~[Cabinet]~~ may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue~~[Cabinet]~~ to reflect the intent of KRS 154.24-010 to 154.24-150 and the allowable income tax credit which an approved company may retain under KRS 154.24-010 to 154.24-150.

Section 510. KRS 141.414 is amended to read as follows:

- (1) A qualified farming operation which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from the qualified farming operation's participation in a networking project.

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to the qualified farming operation's participation in a networking project; and

(c) Be entitled to a tax credit in the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410.

- (2) Notwithstanding any other provisions of this chapter, a qualified farming operation which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to its participation in a networking project at the rates

provided in KRS 141.020(2), and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection. The credit shall not exceed the farming operation's approved costs, as defined in KRS 141.410. If the tax computed in this subsection exceeds the tax credit, the difference shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(3) Notwithstanding any other provisions of this chapter, the net income subject to tax and the tax credit determined under subsection (2) of this section shall be excluded in determining each shareholder's, partner's, or beneficiary's distributive share of net income or credit of an S-corporation, partnership, or trust.

(4) If the networking entity is a separate facility, net income attributable to the project for the purposes of subsections (1), (2), and (3) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the project and overhead expenses apportioned to the project.

(5) If the networking project is an expansion to a previously existing farming operation, net income attributable to the entire operation shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under this chapter directly attributable to the farming operation's participation in the networking project and overhead expenses apportioned to the networking project, and the net income attributable to the networking project for the purposes of subsections (1), (2), and (3) of this section shall be determined by apportioning the separate accounting net income of the entire networking project to the networking project by a formula approved by the Department of Revenue~~[Cabinet]~~.

(6) If an approved company can show to the satisfaction of the Department of Revenue~~[Cabinet]~~ that the nature of the operations and activities of the approved

1 farming operation are such that it is not practical to use the separate accounting  
 2 method to determine the net income from the networking project, the approved  
 3 farming operation shall determine net income from its participation in the  
 4 networking project using an alternative method approved by the Department of  
 5 Revenue~~[Cabinet]~~.

6 (7) The Department of Revenue~~[Cabinet]~~ may promulgate administrative regulations  
 7 pursuant to KRS Chapter 13A and require the filing of forms designed by the  
 8 Department of Revenue~~[Cabinet]~~ necessary to effectuate KRS 141.0101 and KRS  
 9 141.410 to 141.414 and the allowable income tax credit which an approved farming  
 10 operation may retain under the provisions of KRS 141.412 and this section.

11 Section 511. KRS 141.415 is amended to read as follows:

12 (1) As used in this section, unless the context requires otherwise:

13 (a) "Approved company" has the same meaning as set forth in KRS 154.34-010;

14 (b) "Reinvestment project" has the same meaning as set forth in KRS 154.34-010;

15 and

16 (c) "Tax credit" means the tax credit allowed in KRS 154.34-080.

17 (2) An approved company shall determine the income tax credit as provided in this  
 18 section.

19 (3) An approved company which is an individual sole proprietorship subject to tax  
 20 under KRS 141.020, a corporation subject to tax under KRS 141.040(1), or limited  
 21 liability company treated as a corporation for federal income tax purposes shall:

22 (a) Compute the income tax due at the applicable tax rates as provided by KRS  
 23 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable  
 24 net income as defined by KRS 141.010(14), including income from a  
 25 reinvestment project;

26 (b) Compute the income tax due at the applicable tax rates as provided by KRS  
 27 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable

1 net income as defined by KRS 141.010(14), excluding net income attributable  
2 to a reinvestment project; and

3 (c) The tax credit shall be the amount by which the tax computed under paragraph  
4 (a) of this subsection exceeds the tax computed under paragraph (b) of this  
5 subsection; however, the credit shall not exceed the limits set forth in KRS  
6 154.34-080.

7 (4) (a) Notwithstanding any other provisions of this chapter, an approved company  
8 which is an S corporation, partnership, registered limited liability partnership,  
9 limited liability company treated as a partnership for federal income tax  
10 purposes, or trust shall be subject to income tax on the net income attributable  
11 to a reinvestment project at the rates provided in KRS 141.020(2).

12 (b) The amount of the tax credit shall be the same as the amount of the tax  
13 computed in this subsection or, upon the annual election of the approved  
14 company, in lieu of the tax credit, an amount shall be applied as an estimated  
15 tax payment equal to the tax computed in this section. Any estimated tax  
16 payment made pursuant to this paragraph shall be in satisfaction of the tax  
17 liability of the shareholders, partners, members, or beneficiaries of the S  
18 corporation, partnership, registered limited liability partnership, limited  
19 liability company, or trust, and shall be paid on behalf of the shareholders,  
20 partners, members, or beneficiaries.

21 (c) The tax credit or estimated payment shall not exceed the limits set forth in  
22 KRS 154.34-080.

23 (d) If the tax computed in this section exceeds the tax credit, the difference shall  
24 be paid by the S corporation, partnership, registered limited liability  
25 partnership, limited liability company, or trust at the times provided by KRS  
26 141.160 for filing the returns.

27 (e) Any estimated tax payment made by the S corporation, partnership, registered



1           limited liability partnership, limited liability company, or trust in satisfaction  
 2           of the tax liability of shareholders, partners, members, or beneficiaries, shall  
 3           not be treated as taxable income subject to Kentucky income tax by the  
 4           shareholder, partner, member, or beneficiary.

5   (5) Notwithstanding any other provisions of this chapter, the net income subject to tax,  
 6       the tax credit, and the estimated tax payment determined under subsection (4) of  
 7       this section shall be excluded in determining each shareholder's, partner's,  
 8       member's, or beneficiary's distributive share of net income or credit of an S  
 9       corporation, partnership, registered limited liability partnership, limited liability  
 10      company or trust.

11   (6) If the reinvestment project is a totally separate facility, net income attributable to the  
 12      project for the purposes of subsections (3), (4), and (5) of this section shall be  
 13      determined under the separate accounting method reflecting only the gross income,  
 14      deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly  
 15      attributable to the facility and overhead expenses apportioned to the facility.

16   (7) If the reinvestment project is an expansion to a previously existing facility, net  
 17      income attributable to the entire facility shall be determined under the separate  
 18      accounting method reflecting only the gross income, deductions, expenses, gains,  
 19      and losses allowed under KRS Chapter 141 directly attributable to the facility and  
 20      overhead expenses apportioned to the facility, and the net income attributable to the  
 21      reinvestment project for the purposes of subsections (3), (4), and (5) of this section  
 22      shall be determined by apportioning the separate accounting net income of the entire  
 23      facility to the reinvestment project by a formula approved by the Department of  
 24      Revenue~~[Cabinet]~~.

25   (8) If an approved company can show to the satisfaction of the Department of  
 26      Revenue~~[Cabinet]~~ that the nature of the operations and activities of the approved  
 27      company are such that it is not practical to use the separate accounting method to

determine the net income from the facility at which the reinvestment project is located, the approved company shall determine net income from the reinvestment project using an alternative method approved by the Department of Revenue~~Cabinet~~.

- (9) The Department of Revenue~~Cabinet~~ may issue administrative regulations and require the filing of forms designed by the Department of Revenue~~Cabinet~~ to reflect the intent of KRS 154.34-010 to 154.34-100 and the allowable income tax credit which an approved company may retain under KRS 154.34-010 to 154.34-100.

Section 512. KRS 141.416 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:

(a) "Approved company" means a company approved under KRS 154.34-010 to KRS 154.34-100 and subject to license tax under KRS 136.070;

(b) "Reinvestment project" has the same meaning as set forth in KRS 154.34-010; and

(c) "Tax credit" means the tax credit allowed in KRS 154.34-080.

- (2) The tax credit shall equal the computed license tax attributable to the location of a reinvestment project; however, the credit shall not exceed the limits set forth in KRS 154.34-080.

- (3) The license tax attributable to a reinvestment project shall be determined by a formula approved by the Department of Revenue~~Cabinet~~.

- (4) The Department of Revenue~~Cabinet~~ may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue~~Cabinet~~ to reflect the intent of KRS 154.34-010 to 154.34-100 and the allowable tax credit which an approved company may retain under KRS 154.34-010 to 154.34-100.

Section 513. KRS 141.442 is amended to read as follows:

- (1) Effective for the tax year beginning January 1, 1990, and for each tax year

thereafter, any individual who is entitled to a tax refund sufficient to make a designation under this section may designate an amount, not to exceed the amount of the refund, to be paid to the Bluegrass State Games and United States Olympic Committee fund. In the case of a joint return, each spouse may designate that a portion of the refund shall be paid to the fund. Such designation shall not increase or decrease the income tax liability of any taxpayer, but it shall reduce the income tax refund of such taxpayer or spouse by the amount or amounts designated.

(2) The tax designation authorized in this section shall be clearly and unambiguously printed on the state individual income tax return.

(3) The commissioner of the Department of Revenue~~[secretary of revenue]~~ shall certify by December 1, 1990, and by December 1 of each year thereafter, all such designated amounts to be paid by the State Treasurer. The Treasurer shall remit by January 1, 1991, and by January 1 of each year thereafter, on an equal share basis, all moneys paid into the fund during the preceding tax year, to the appropriate officials designated by the governing bodies of the Bluegrass State Games and the United States Olympic Committee, respectively.

(4) If the governing body of either the Bluegrass State Games or the United States Olympic Committee ceases to exist and function in this state, then any funds to be made available to such governing body, pursuant to subsection (3) of this section, shall be paid over to the governing body representing the remaining organization.

Section 514. KRS 141.460 is amended to read as follows:

(1) The Department of Revenue~~[Cabinet]~~ shall print on the face of the Kentucky individual income tax form a space for a taxpayer to designate that a contribution be made to the Kentucky Nature and Wildlife Fund from that taxpayer's income tax refund. The space for designating the contribution shall be in substantially the following form:

KENTUCKY NATURE AND WILDLIFE FUND. I wish to contribute

1     \$2-----     \$5-----     \$10-----     \$-----

2     of my TAX REFUND TO THE KENTUCKY NATURE AND WILDLIFE FUND.

3     (2)   The Department of Revenue~~[Cabinet]~~ shall print in the instructions accompanying  
4           the individual income tax form a description of the purposes for which the  
5           Kentucky Nature and Wildlife Fund was established and the use of moneys from the  
6           income tax check-off.

7           Section 515.   KRS 141.465 is amended to read as follows:

8     The commissioner~~[secretary]~~ of the Department of Revenue~~[Cabinet]~~ shall transfer fifty  
9     percent (50%) of the funds designated in KRS 141.460 to the nongame fish and wildlife  
10    fund created by KRS 150.165 and fifty percent (50%) to the Kentucky nature preserves  
11    fund created by KRS 146.520 and shall reduce the amount of the income tax refund by  
12    the amount designated. Moneys in each fund shall be placed in an interest-bearing  
13    account.

14          Section 516.   KRS 141.475 is amended to read as follows:

15    The Department of Revenue~~[Cabinet]~~ shall promulgate such rules and regulations as  
16    may be necessary to effectively administer the provisions of KRS 141.455 to 141.470.

17          Section 517.   KRS 141.985 is amended to read as follows:

18    If the tax imposed by this chapter, whether assessed by the department~~[cabinet]~~, or the  
19    taxpayer, or any installment or portion of the tax is not paid on or before the date  
20    prescribed for its payment, there shall be collected, as a part of the tax, interest upon the  
21    unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date  
22    prescribed for its payment until payment is actually made to the department~~[cabinet]~~.  
23    Interest shall be assessed, collected, and paid in the same manner as if it were a  
24    deficiency.

25          Section 518.   KRS 141.990 is amended to read as follows:

26    (1)   Any individual, fiduciary, corporation, employer, or other person who violates any  
27          of the provisions of this chapter shall be subject to the uniform civil penalties

1 imposed pursuant to KRS 131.180.

2 (2) Any individual required by KRS 141.300 to file a declaration of estimated tax and  
3 required by KRS 141.305 to pay the declaration of estimated tax shall be subject to  
4 a penalty as provided in KRS 131.180 for any declaration underpayment or any late  
5 payment. Underpayment, for purposes of this subsection, is determined by  
6 subtracting declaration credits allowed by KRS 141.070, declaration installment  
7 payments actually made, and credit for tax withheld as allowed by KRS 141.350  
8 from seventy percent (70%) of the total income tax liability computed by the  
9 taxpayer as shown on the return filed for the tax year. This subsection shall not  
10 apply to the tax year in which the death of the taxpayer occurs, nor in the case of a  
11 farmer exercising an election under subsection (5) of KRS 141.305, nor in the case  
12 of any person having a tax liability of two hundred dollars (\$200) or less.

13 (3) Any corporation required by KRS 141.042 to file a declaration of estimated tax and  
14 required to pay the declaration of estimated tax by the installment method  
15 prescribed by subsection (1) of KRS 141.044 shall be subject to a penalty as  
16 provided in KRS 131.180 for any declaration underpayment or any installment not  
17 paid on time. Declaration underpayment, for purposes of this subsection, is  
18 determined by subtracting five thousand dollars (\$5,000) and declaration payments  
19 actually made from seventy percent (70%) of the total income tax liability computed  
20 by the taxpayer on the return filed for the tax year.

21 (4) Every tax imposed by this chapter, and all increases, interest, and penalties thereon,  
22 shall become, from the time it is due and payable, a personal debt to the state from  
23 the taxpayer or other person liable therefor.

24 (5) In addition to the penalties herein prescribed, any taxpayer or employer, who  
25 willfully fails to make a return or willfully makes a false return, or who willfully  
26 fails to pay taxes owing or collected, with intent to evade payment of the tax or  
27 amount collected, or any part thereof, shall be guilty of a Class D felony.

1 (6) Any person who willfully aids or assists in, or procures, counsels, or advises the  
 2 preparation or presentation under, or in connection with any matter arising under  
 3 this chapter of a return, affidavit, claim, or other document, which is fraudulent or is  
 4 false as to any material matter, whether or not the falsity or fraud is with the  
 5 knowledge or consent of the person authorized or required to present such return,  
 6 affidavit, claim, or document, shall be guilty of a Class D felony.

7 (7) A return for the purpose of this section shall mean and include any return,  
 8 declaration, or form prescribed by the department~~[cabinet]~~ and required to be filed  
 9 with the department~~[cabinet]~~ by the provisions of this chapter, or by the rules and  
 10 regulations of the department~~[cabinet]~~ or by written request for information to the  
 11 taxpayer by the department~~[cabinet]~~.

12 Section 519. KRS 142.010 is amended to read as follows:

13 (1) The following taxes shall be paid:

- 14 (a) A tax of three dollars and fifty cents (\$3.50) on each marriage license;
- 15 (b) A tax of three dollars (\$3) on each power of attorney to convey real or  
 16 personal property;
- 17 (c) A tax of three dollars (\$3) on each mortgage, financing statement, or security  
 18 agreement and on each notation of a security interest on a certificate of title  
 19 under KRS 186A.190;
- 20 (d) A tax of three dollars (\$3) on each conveyance of real property; and
- 21 (e) A tax of three dollars (\$3) on each lien or conveyance of coal, oil, gas, or  
 22 other mineral right or privilege.

23 (2) The tax imposed by this section shall be collected by each county clerk as a  
 24 prerequisite to the issuance of a marriage license or the original filing of an  
 25 instrument subject to the tax. Subsequent assignment of the original instrument  
 26 shall not be cause for additional taxation under this section. This section shall not  
 27 be construed to require any tax upon a deed of release of a lien retained in a deed or

1 mortgage.

2 (3) Taxes imposed under this section shall be reported and paid to the Department of  
 3 Revenue~~[Cabinet]~~ by each county clerk within ten (10) days following the end of  
 4 the calendar month in which instruments subject to tax are filed or marriage licenses  
 5 issued. Each remittance shall be accompanied by a summary report on a form  
 6 prescribed by the department~~[cabinet]~~.

7 (4) Any county clerk who violates any of the provisions of this section shall be subject  
 8 to the uniform civil penalties imposed pursuant to KRS 131.180. In every case, any  
 9 tax not paid on or before the due date shall bear interest at the tax interest rate as  
 10 defined in KRS 131.010(6) from the date due until the date of payment.

11 Section 520. KRS 142.015 is amended to read as follows:

12 The county clerk, in each county, shall be allowed five percent (5%) commission on the  
 13 amounts collected for state taxes on legal processes and instruments provided for under  
 14 KRS 142.010, said five percent (5%) commission to be retained by the county clerk on  
 15 said sums reported to the Department of Revenue~~[Cabinet]~~ and paid by the county clerk  
 16 into the State Treasury.

17 Section 521. KRS 142.050 is amended to read as follows:

18 (1) As used in this section, unless the context otherwise requires:

19 (a) "Deed" means any document, instrument, or writing other than a will and  
 20 other than a lease or easement, regardless of where made, executed, or  
 21 delivered, by which any real property in Kentucky, or any interest therein, is  
 22 conveyed, vested, granted, bargained, sold, transferred, or assigned.

23 (b) "Value" means:

24 1. In the case of any deed not a gift, the amount of the full actual  
 25 consideration therefor, paid or to be paid, including the amount of any  
 26 lien or liens thereon; and

27 2. In the case of a gift, or any deed with nominal consideration or without

1                   stated consideration, the estimated price the property would bring in an  
2                   open market and under the then prevailing market conditions in a sale  
3                   between a willing seller and a willing buyer, both conversant with the  
4                   property and with prevailing general price levels.

5       (2) A tax upon the grantor named in the deed shall be imposed at the rate of fifty cents  
6       (\$0.50) for each \$500 of value or fraction thereof, which value is declared in the  
7       deed upon the privilege of transferring title to real property.

8       (3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is  
9               offered for recordation, the county clerk shall ascertain and compute the  
10              amount of the tax due thereon and shall collect the amount as prerequisite to  
11              acceptance of the deed for recordation.

12           (b) The amount of tax shall be computed on the basis of the value of the  
13              transferred property as set forth in the deed.

14           (c) The tax required to be levied by this section shall be collected only once on  
15              each transaction and in the county in which the deed is required to be recorded  
16              by KRS 382.110(1).

17       (4) The county clerk shall collect the amount due and certify the date of payment and  
18              the amount of collection on the deed. The county clerk shall retain five percent (5%)  
19              as his fee for collection and remit the balance every three (3) months to the county  
20              treasurer, who shall deposit the money in the county general fund.

21       (5) The Department of Revenue~~[Cabinet]~~ may prescribe regulations necessary to carry  
22              out the purposes of this section.

23       (6) Any county clerk who willfully shall record any deed upon which a tax is imposed  
24              by this section without collecting the proper amount of tax and certifying the date  
25              and amount of collection on the deed as required by this section based on the  
26              declared value indicated in the affidavit appended to the deed shall, upon  
27              conviction, be fined \$50 for each offense.



- 1 (7) The tax imposed by this section shall not apply to a transfer of title:
- 2 (a) Recorded prior to March 27, 1968;
- 3 (b) To, in the event of a deed of gift or deed with nominal consideration, or from
- 4 the United States of America, this state, any city or county within this state, or
- 5 any instrumentality, agency, or subdivision hereof;
- 6 (c) Solely in order to provide or release security for a debt or obligation;
- 7 (d) Which confirms or corrects a deed previously recorded;
- 8 (e) Between husband and wife, or between former spouses as part of a divorce
- 9 proceeding;
- 10 (f) On sale for delinquent taxes or assessments;
- 11 (g) On partition;
- 12 (h) Pursuant to:
- 13 1. Merger or consolidation between and among corporations, partnerships,
- 14 including registered limited liability partnerships, limited partnerships,
- 15 or limited liability companies; or
- 16 2. The conversion of a general partnership, including a registered limited
- 17 liability partnership, or a limited partnership into a limited liability
- 18 company;
- 19 (i) Between a subsidiary corporation and its parent corporation for no
- 20 consideration, nominal consideration, or in sole consideration of the
- 21 cancellation or surrender of either corporation's stock;
- 22 (j) Under a foreclosure proceeding;
- 23 (k) Between a person and a corporation, general partnership, limited partnership,
- 24 registered limited liability partnership, or limited liability company in an
- 25 amount equal to the portion of the value of the real property transferred that
- 26 represents the proportionate interest of the transferor of the property in the
- 27 entity to which the property was transferred, if the transfer was for nominal

1 consideration;

2 (l) Between parent and child or grandparent and grandchild, with only nominal  
3 consideration therefor;

4 (m) By a corporation, general partnership, limited partnership, registered limited  
5 liability partnership, or limited liability company to a person as owner or  
6 shareholder of the entity, upon dissolution of the entity, in an amount equal to  
7 the portion of the value of the real property transferred that represents the  
8 proportionate interest of the person to whom the property was transferred, if  
9 the transfer was for nominal consideration;

10 (n) Between a trustee and a successor trustee; and

11 (o) Between a limited liability company and any of its members.

12 (8) The tax imposed by subsection (2) of this section shall not apply to transfers to a  
13 trustee, to be held in trust, or from a trustee to a beneficiary of the trust if:

14 (a) The grantor is the sole beneficiary of the trust;

15 (b) The grantor is a beneficiary of the trust and a direct transfer from the grantor  
16 of the trust to all other individual beneficiaries of the trust would have  
17 qualified for an exemption from the tax pursuant to one (1) of the provisions  
18 of subsection (7) of this section; or

19 (c) A direct transfer from the grantor of the trust to all other individual  
20 beneficiaries of the trust would have qualified for an exemption from the tax  
21 pursuant to one (1) of the provisions of subsection (7) of this section.

22 (9) As used in this section, "trust" shall have the same definition as contained in KRS  
23 386.800.

24 Section 522. KRS 142.301 is amended to read as follows:

25 As used in KRS 142.301 to 142.359:

26 (1) "Department~~[Cabinet]~~" means the Department of Revenue~~[Cabinet]~~;

27 (2) "Charitable provider" means any provider which does not charge its patients for

1 health-care items or services, and which does not seek or accept Medicare,  
 2 Medicaid, or other financial support from the federal government or any state  
 3 government. The collaboration with public hospitals, agencies, or other providers in  
 4 the delivery of patient care; affiliation with public institutions to provide health-care  
 5 education; or the pursuit of research in cooperation with public institutions or  
 6 agencies shall not be considered as the receipt of government support by a  
 7 charitable provider;

8 (3) "Dispensing" means to deliver one (1) or more doses of a prescription drug in a  
 9 suitable container, appropriately labeled for subsequent administration or use by a  
 10 patient or other individual entitled to receive the prescription drug;

11 (4) "Entity" means any firm, partnership, joint venture, association, corporation,  
 12 company, joint stock association, trust, business trust, syndicate, cooperative, or  
 13 other group or combination acting as a unit;

14 (5) "Gross revenues" means the total amount received in money or otherwise by a  
 15 provider for the provision of health-care items or services in Kentucky, less the  
 16 following:

17 (a) Amounts received by any provider as an employee or independent contractor  
 18 from another provider for the provision of health-care items or services if:

- 19 1. The employing or contracting provider receives revenue attributable to  
 20 health-care items or services provided by the employee or independent  
 21 contractor receiving payment; and
- 22 2. The employing or contracting provider is subject to the tax imposed by  
 23 KRS 142.303, 142.307, 142.309, and 142.311 on the receipt of that  
 24 revenue;

25 (b) Amounts received as a grant or donation by any provider from federal, state,  
 26 or local government or from an organization recognized as exempt from  
 27 federal income taxation under Section 501(c)(3) of the Internal Revenue Code

- 1           for:
- 2           1.    Research; or
- 3           2.    Administrative or operating costs associated with the implementation
- 4                   and operation of an experimental program;
- 5       (c)   Salaries or wages received by an individual provider as an employee of a
- 6           charitable provider, the federal government, or any state or local governmental
- 7           entity;
- 8       (d)   Salaries or wages received by an individual provider as an employee of a
- 9           public university for the provision of services at a student health facility; and
- 10       (e)   Amounts received by an HMO on a fixed, prepayment basis as premium
- 11           payments.
- 12   (6)   "Health-care items or services" means:
- 13       (a)   Inpatient hospital services;
- 14       (b)   Outpatient hospital services;
- 15       (c)   Nursing-facility services;
- 16       (d)   Services of intermediate-care facilities for the mentally retarded;
- 17       (e)   Physicians' services provided prior to July 1, 1999;
- 18       (f)   Licensed home-health-care-agency services;
- 19       (g)   Outpatient prescription drugs; and
- 20       (h)   HMO services;
- 21   (7)   "Health-maintenance organization" or "HMO" means an organization established
- 22           and operated pursuant to the provisions of Subtitle 38 of KRS Chapter 304;
- 23   (8)   "Hospital" means an acute-care, rehabilitation, or psychiatric hospital licensed
- 24           under KRS Chapter 216B;
- 25   (9)   "Hospital services" means all inpatient and outpatient services provided by a
- 26           hospital. "Hospital services" does not include services provided by a noncontracted,
- 27           university-operated hospital, or any freestanding psychiatric hospital, if necessary

- 1       waivers are obtained by the Cabinet for Human Resources from the Health Care  
2       Financing Administration, or hospitals operated by the federal government;
- 3       (10) "Health services secretary" means the secretary of the Cabinet for Health Services  
4       or that person's authorized representative;
- 5       (11) "Inpatient hospital services," "outpatient hospital services," "intermediate-care-  
6       facility services for the mentally retarded," "physician services," "licensed home-  
7       health-care-agency services," and "outpatient prescription drugs" have the same  
8       meaning as set forth in regulations promulgated by the Secretary of the Department  
9       of Health and Human Services and codified at 42 C.F.R. pt. 440, as in effect on  
10      December 31, 1993;
- 11      (12) "Medicaid" means the state program of medical assistance as administered by the  
12      Cabinet for Health Services in compliance with 42 U.S.C. sec. 1396;
- 13      (13) "Nursing-facility services" means services provided by a licensed skilled-care  
14      facility, nursing facility, nursing home, or intermediate-care facility, excluding  
15      intermediate-care facilities for the mentally retarded;
- 16      (14) "Person" means any individual, firm, partnership, joint venture, association,  
17      corporation, company, joint stock association, estate, trust, business trust, receiver,  
18      trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other  
19      group or combination acting as a unit and the legal successor thereof;
- 20      (15) "Provider" means any person receiving gross revenues for the provision of health-  
21      care items or services in Kentucky, excluding any facility operated by the federal  
22      government; and
- 23      (16) "Commissioner~~[Secretary]~~" means the commissioner~~[secretary]~~ of the Department  
24      of Revenue~~[Cabinet]~~ or that person's authorized representative.

25      Section 523. KRS 142.317 is amended to read as follows:

26      Charitable providers as defined in KRS 142.301 shall be exempt from the taxes imposed  
27      by KRS 142.303, 142.307, 142.309, and 142.311, as well as the provisions of KRS

1 142.321, 142.333, 142.341, and 142.343 upon providing proper certification to the  
2 department{cabinet}.

3 Section 524. KRS 142.321 is amended to read as follows:

4 (1) Every provider subject to the taxes imposed by KRS 142.303, 142.307, 142.309,  
5 and 142.311 that is not registered with the department{cabinet} pursuant to the  
6 provisions of KRS 142.221 shall, on July 15, 1994, file an application for a  
7 certificate of registration with the department{cabinet}. A certificate of registration  
8 filed in accordance with the provisions of KRS 142.221 shall remain valid for  
9 purposes of KRS 142.301 to 142.359. Every provider seeking to provide health care  
10 items or services in Kentucky for the first time after July 15, 1994, shall, prior to  
11 providing these items or services, file an application for a certificate of registration  
12 with the department{cabinet}. The application shall be in the form prescribed by the  
13 department{cabinet}. The application shall be signed by the owner if a natural  
14 person; in the case of an association or partnership, by a member or partner; in the  
15 case of a corporation, by an executive officer or some person specifically authorized  
16 by the corporation to sign the application.

17 (2) Every state board responsible for licensing or governing any provider subject to the  
18 tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 shall, upon request by  
19 the department{cabinet}, provide any information available to the licensing board  
20 necessary for the administration of the taxes imposed by KRS 142.303, 142.307,  
21 142.309, and 142.311. The information shall be in the form required by the  
22 department{cabinet} and shall be used by the department{cabinet} for the sole  
23 purpose of administering the taxes imposed by KRS 142.303, 142.307, 142.309,  
24 and 142.311.

25 (3) Every state board responsible for licensing or governing any provider subject to the  
26 tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 shall, upon request by  
27 the department{cabinet}, include the application for certificate of registration

required by subsection (1) of this section with any new license issued. Application forms shall be provided by the department~~[cabinet]~~ to the licensing board.

Section 525. KRS 142.323 is amended to read as follows:

The taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 are due and payable to the department~~[cabinet]~~ monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month.

Section 526. KRS 142.327 is amended to read as follows:

(1) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the department~~[cabinet]~~ in the form prescribed by the department~~[cabinet]~~, together with payment of any tax due.

(2) A return shall be filed by every provider. The return shall be signed by the person required to file the return or a duly-authorized agent.

(3) The return shall show the gross revenues of the provider during the preceding reporting period. The return shall also show the amount of taxes for the period covered by the return and other information as the department~~[cabinet]~~ deems necessary for the proper administration of KRS 142.301 to 142.359.

(4) The person required to file the return shall deliver the return, together with a remittance of the amount of the tax due, to the department~~[cabinet]~~.

(5) For the purpose of facilitating the administration, payment, or collection of the taxes levied by KRS 142.303, 142.307, 142.309, and 142.311, the department~~[cabinet]~~ may permit or require returns to be filed or tax payments to be made other than as specifically required by the provisions of this section, except the department~~[cabinet]~~ shall not require or permit returns or payments to be filed or remitted more frequently than monthly.

Section 527. KRS 142.331 is amended to read as follows:

(1) The department~~[cabinet]~~ shall, upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the department~~[cabinet]~~,

1 extend the time for filing the return or paying the tax for a period not to exceed  
2 thirty (30) days.

3 (2) Any person for which the extension is granted shall pay, in addition to the tax,  
4 interest at the tax interest rate as defined in KRS 131.010(6) from the date on which  
5 the tax would otherwise have been due.

6 Section 528. KRS 142.333 is amended to read as follows:

7 (1) As soon as practicable after each return is received, the department~~[cabinet]~~ shall  
8 examine it. If the amount of tax computed by the department~~[cabinet]~~ is greater  
9 than the amount returned by the taxpayer, the excess shall be assessed by the  
10 department~~[cabinet]~~ within four (4) years from the later of the date the return was  
11 filed or due, except that in the case of a failure to file a return or a fraudulent return,  
12 the excess may be assessed at any time. A notice of assessment shall be mailed to  
13 the provider. The provider and the department~~[cabinet]~~ may agree to extend this  
14 time period.

15 (2) Any provider aggrieved by an action of the department~~[cabinet]~~ may request a  
16 review and shall have the rights of appeal as set forth in KRS Chapter 131.

17 (3) Notwithstanding the four (4) year time limitation set forth in subsection (1), in the  
18 case of a return where the provider understates gross revenues by twenty-five  
19 percent (25%) or more, the excess shall be assessed by the department~~[cabinet]~~  
20 within six (6) years from the later of the date the return is due or filed.

21 Section 529. KRS 142.337 is amended to read as follows:

22 In making a determination of tax liability, the department~~[cabinet]~~ may offset  
23 overpayments for a period or periods, together with interest on the overpayments, against  
24 underpayments for another period or periods, against penalties, and against the interest on  
25 the underpayments.

26 Section 530. KRS 142.341 is amended to read as follows:

27 (1) Every provider shall keep records, receipts, invoices, and other pertinent papers in



1 the form as the department~~[cabinet]~~ may require.

2 (2) Every provider who files the returns required under KRS 142.323 shall keep records  
3 for not less than six (6) years from the making of records unless the  
4 department~~[cabinet]~~ in writing authorizes their destruction at an earlier date.

5 Section 531. KRS 142.347 is amended to read as follows:

6 (1) Except when the health services secretary has been granted specific authority in  
7 KRS 142.301 to 142.359, the department~~[cabinet]~~ shall administer the provisions  
8 of KRS 142.301 to 142.359, and shall have all of the powers, rights, duties, and  
9 authority with respect to the assessment, collection, refunding, and administration  
10 of the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311, conferred  
11 generally by the Kentucky Revised Statutes including KRS Chapters 131, 134, and  
12 135.

13 (2) The Cabinet for Health Services shall be responsible for compliance with all federal  
14 reporting requirements regarding the taxes imposed by KRS 142.303, 142.307,  
15 142.309, and 142.311.

16 (3) The Cabinet for Health Services shall fully cooperate with the department~~[cabinet]~~  
17 and shall provide the department~~[cabinet]~~ with any information requested to carry  
18 out the provisions of KRS 142.301 to 142.359.

19 Section 532. KRS 142.351 is amended to read as follows:

20 (1) A report of revenue receipts from the taxes imposed by KRS 142.303, 142.307,  
21 142.309, and 142.311 shall be provided on a quarterly basis by the  
22 department~~[cabinet]~~ to the health services secretary on or before the tenth day of  
23 the second month following the close of each fiscal quarter.

24 (2) It is the responsibility of each provider, subject to tax under KRS 142.303, 142.307,  
25 142.309, and 142.311 to register with the department~~[cabinet]~~, and comply with the  
26 tax and reporting provisions of KRS 142.301 to 142.359.

27 Section 533. KRS 142.353 is amended to read as follows:

1 (1) Whenever it is deemed necessary to insure compliance with the provisions of KRS  
 2 142.301 to 142.359, the department~~{cabinet}~~ may require any person subject to the  
 3 taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 to place security  
 4 with it. The amount of the security shall be fixed by the department~~{cabinet}~~ but  
 5 shall not be greater than three (3) times the estimated average liability of the  
 6 provider or all providers in the same class as the provider, whichever is greater.  
 7 This limitation shall apply regardless of the type of security placed with the  
 8 department~~{cabinet}~~.

9 (2) The amount of the security may be increased or decreased by the  
 10 department~~{cabinet}~~, subject to the limitations provided in subsection (1) of this  
 11 section.

12 (3) (a) If necessary, the department~~{cabinet}~~ may sell the security at public auction in  
 13 order to recover any tax, penalty, or interest due. However, security in the  
 14 form of a bearer bond issued by the United States or any state or local  
 15 governmental unit which has a prevailing market price may be sold by the  
 16 department~~{cabinet}~~ at a private sale at a price not lower than the prevailing  
 17 market price.

18 (b) 1. The department~~{cabinet}~~ shall provide notice by certified mail, sent to  
 19 the last known address as reflected in the records of the  
 20 department~~{cabinet}~~, or by delivery, to the person who placed the  
 21 security with the department~~{cabinet}~~ of the date, time, and place of the  
 22 sale.

23 2. Delivery means mailing the notice to the person it is addressed to,  
 24 leaving the notice at his place of business with the person in charge of  
 25 the place of business, or, if there is no one in charge, leaving the notice  
 26 at a conspicuous place at the place of business. If the place of business is  
 27 closed, or the person to be served has no place of business, leaving it at

his home, with a person of suitable age and discretion residing in the home. Notice by certified mail must be postmarked no later than ten (10) days prior to the sale. Notice by delivery must be given no later than ten (10) days prior to the sale.

(c) Any amount in excess of the amount due the department~~[cabinet]~~ after the sale shall be returned to the person placing the security.

(4) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of a provider's business until the security is obtained. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction over the provider.

Section 534. KRS 143.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Department~~[Cabinet]~~" means "Department of Revenue~~[Cabinet]~~."

(2) "Coal" means and includes any material composed predominantly of hydrocarbons in a solid state.

(3) "Severed," "severing," or "severance" means the physical removal of coal from the earth.

(4) "Ton" means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the coal is weighed.

(5) "Taxpayer" shall mean and include any individual, partnership, joint venture, association, or corporation engaged in severing and/or processing coal in this state. In instances where contracts, either oral or written, are entered into by which persons, organizations, or businesses are engaged to mine or process the coal but do not obtain title to or do not have an economic interest therein, the party who owns the coal or has an economic interest shall be the taxpayer.

(6) "Gross value" is synonymous with gross income from property as defined in Section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect

1 on December 31, 1977, with the exception that in all instances transportation  
2 expense, as defined in subsection (11) of this section, incurred in transporting coal  
3 shall not be considered as gross income from the property. Gross value shall be  
4 reported as follows:

5 (a) For coal severed and/or processed and sold during a reporting period, gross  
6 value shall be the amount received or receivable by the taxpayer.

7 (b) For coal severed and/or processed, but not sold during a reporting period,  
8 gross value shall be determined as follows:

9 1. If the coal is to be sold under the terms of an existing contract, the  
10 contract price shall be used in computing gross value.

11 2. If there is no existing contract, the fair market value for that grade and  
12 quality of coal shall be used in computing gross value.

13 (c) In a transaction involving related parties, gross value shall be the amount  
14 received or receivable from the first noncontrolled sale by the related parties.  
15 If coal is sold to a related party for consumption, gross value shall not be less  
16 than the fair market value for coal of similar grade and quality.

17 (d) In the absence of a sale, gross value shall be the fair market value for coal of  
18 similar grade and quality.

19 (e) If severed coal is purchased for the purpose of processing and resale, the gross  
20 value shall be the amount received or receivable during the reporting period  
21 reduced by the amount paid or payable to the registered taxpayer actually  
22 severing the coal.

23 (f) If severed coal is purchased for the purpose of processing and consumption,  
24 the gross value shall be the fair market value of processed coal of similar  
25 grade and quality reduced by the amount paid or payable to the registered  
26 taxpayer actually severing the coal.

27 (g) In all instances, the gross value shall not be reduced by any taxes, including

1           the tax levied by KRS 143.020, royalties, sales commissions, or any other  
2           expense.

3   (7) "Reporting period" means the period for which each taxpayer shall compute his tax  
4       liability and remit the tax due to the department~~[cabinet]~~. The reporting period shall  
5       be monthly. However, the department~~[cabinet]~~ may, under certain conditions,  
6       authorize a quarterly reporting period.

7   (8) "Processing" includes cleaning, breaking, sizing, dust allaying, treating to prevent  
8       freezing, or loading or unloading for any purpose. "Processing" shall not include:

9       (a) Acts performed by a final consumer who is not a related party to the person  
10       who severed and/or processed the coal if such acts are performed only at the  
11       site where the coal is consumed for purposes of generating electricity; or

12       (b) The act of unloading or loading for shipment coal that has not been severed,  
13       cleaned, broken, sized, or otherwise treated in Kentucky.

14   (9) "Related party" means two (2) or more persons, organizations, or businesses owned  
15       or controlled directly or indirectly by the same interest. Control shall exist if a  
16       contract or lease, either written or oral, is entered into whereby one (1) party mines  
17       or processes coal owned or held by another party and the owner or lessor  
18       participates in the mining, processing, or marketing of the coal or receives any value  
19       other than an arm's length passive royalty interest. In the case of related parties, the  
20       department~~[cabinet]~~ may apportion or allocate the receipts between or among the  
21       persons, organizations, or businesses if it determines that the apportionment or  
22       allocation is necessary in order to more clearly reflect gross value.

23   (10) "Economic interest" for the purposes of this chapter shall be synonymous with the  
24       economic interest ownership required by Internal Revenue Code Section 611 in  
25       effect on December 31, 1977, entitling the taxpayer to a depletion deduction for  
26       income tax purposes with the exception that a party who only receives an arm's  
27       length royalty shall not be considered as having an economic interest.

1 (11) "Transportation expense" shall mean:

2 (a) The amount paid by a taxpayer to a third party for transporting coal from the  
3 mine mouth or pit to a processing plant, tipple, or loading dock.

4 (b) The expense incurred by a taxpayer using his own facilities in transporting  
5 coal from the mine mouth or pit to a processing plant, tipple, or loading dock.

6 (c) Transportation expenses shall not include:

7 1. The cost of acquisition, improvements, and maintenance of real  
8 property;

9 2. The cost of acquisition and operating expenses of mining and nonmining  
10 loading or unloading facilities;

11 3. The cost of acquisition and operating expenses of equipment used to  
12 load or unload the coal at the mine, processing facility, and mining and  
13 nonmining loading facility.

14 (12) "Registered taxpayer" as used in subsection (6)(e) and (f) of this section shall mean  
15 a "taxpayer" as defined in subsection (5) of this section who holds a valid coal tax  
16 certificate of registration required under KRS 143.030(1) and the certificate of  
17 registration was valid for the period in which his coal was sold.

18 (13) "Above-drainage" means coal in a coal bed that outcrops at the surface within a  
19 mine permit area and that is accessed at the outcrop location.

20 (14) "Below-drainage" means coal in a coal bed that does not outcrop at the surface  
21 within a mine permit area and that is accessed by mine slopes or other openings that  
22 penetrate the coal a minimum of thirty (30) feet below the surface drainage level.

23 (15) "Mining ratio" means the amount of bank cubic yards of surface material that must  
24 be removed before a ton of coal can be mined.

25 Section 535. KRS 143.040 is amended to read as follows:

26 The Department of Revenue~~[Cabinet]~~ shall administer the provisions of this chapter and  
27 shall, subject to the provisions of KRS 143.090, have all the powers, rights, duties, and

1 authority with respect to promulgation of rules and regulations, assessment, collection,  
 2 refunding and administration of the taxes levied by this chapter conferred generally on it  
 3 by the Kentucky Revised Statutes including Chapters 131, 134, and 135 of such statutes.

4 Section 536. KRS 143.090 is amended to read as follows:

5 (1) The Transportation Cabinet shall certify to the commissioner~~[secretary]~~ of the  
 6 Department of Revenue~~[Cabinet]~~ by October 1 of each fiscal year the amount  
 7 required for lease rental payments to the Kentucky Turnpike Authority for resource  
 8 recovery road projects.

9 (2) The Kentucky Coal Council shall certify to the commissioner~~[secretary]~~ of the  
 10 Department of Revenue~~[Cabinet]~~ by October 1 of each year the amount of the  
 11 annual lease rental payments required to be made for any energy research  
 12 developmental or demonstration project undertaken by the Kentucky Coal Council.  
 13 The amount so certified shall in no case exceed three million dollars (\$3,000,000) in  
 14 any one (1) year.

15 (3) Upon receiving the certifications provided for in subsections (1) and (2) of this  
 16 section, the commissioner~~[secretary]~~ of the Department of Revenue~~[Cabinet]~~ shall  
 17 cause the certified amounts to be deposited from the proceeds of the tax levied by  
 18 KRS 143.020 to the credit of the transportation fund and the Kentucky Coal  
 19 Council, respectively, unless otherwise provided by the General Assembly in a  
 20 budget bill, as follows:

21 (a) An amount equal to the amount certified by the Transportation Cabinet shall  
 22 be deposited to the transportation fund (road fund); and

23 (b) An amount equal to the amount certified by the Kentucky Coal Council shall  
 24 be transferred by appropriate interfund transfer procedures to the Kentucky  
 25 Coal Council.

26 (4) All tax levied by KRS 143.020 collected in excess of the amount required to be  
 27 deposited to the transportation fund (road fund) or transferred to the Kentucky Coal

1 Council shall be deposited by the Department of Revenue~~[Cabinet]~~ to the credit of  
2 the general fund.

- 3 (5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified  
4 under subsections (1) and (2) of this section, the commissioner~~[secretary]~~ of  
5 revenue shall prorate the proceeds to the transportation fund and the Kentucky Coal  
6 Council based upon the ratio of each certified amount to the total of the two (2)  
7 certified amounts.

8 Section 537. KRS 143.025 is amended to read as follows:

- 9 (1) Taxpayers severing coal in Kentucky and partially or wholly processing the coal  
10 outside of Kentucky thereafter and taxpayers severing coal outside of Kentucky and  
11 partially or wholly processing the coal in Kentucky thereafter shall determine and  
12 report the gross value of the coal by application of the following formula:

- 13 (a) Determine the direct cost of severing or processing the coal in Kentucky as  
14 defined in subsections (d) and (e) of this section.
- 15 (b) Determine the direct cost of severing or processing the coal outside of  
16 Kentucky as defined in subsections (d) and (e) of this section.
- 17 (c) Exclude from subsections (a) and (b) of this section transportation expense as  
18 defined in KRS 143.010(11) and overhead cost as defined in subsection (f) of  
19 this section.
- 20 (d) Include in the direct cost of severing coal: black lung excise tax; contract  
21 mining, less transportation expense contained therein; cost depletion;  
22 depreciation; development; equipment rental; explosives; fuel; labor and  
23 associated expenses; maintenance; reclamation; royalties when based on tons  
24 severed; and wheelage.
- 25 (e) Include in the direct cost of processing coal: depreciation; equipment rental;  
26 fee processing; fuel; labor and associated expense; maintenance; and refuse  
27 disposal.



1 (f) Include in the overhead costs: commissions; freight yard and siding expense;  
 2 general expense; general insurance and supervision; general office expense;  
 3 idle time expense; inventory adjustments; mine closing expense; officers'  
 4 salaries; percentage depletion; quality analysis; scale and weighman's expense;  
 5 transportation expense and taxes, including sales, coal severance, property,  
 6 franchises, and state income taxes.

7 (2) For purposes of computing the formula under this section, any expense which is not  
 8 directly attributable to either the severing or processing of the coal shall be  
 9 classified as an overhead cost.

10 (3) Direct cost determined in subsection (a) of this section divided by the total of direct  
 11 cost determined in subsection (a) of this section and the direct cost determined in  
 12 subsection (b) of this section and the result multiplied by the gross value of the coal  
 13 shall equal the proportion of gross value which is subject to the tax levied under  
 14 KRS 143.020.

15 (4) Any taxpayer determining taxable gross value as provided in this section shall  
 16 submit supporting computations and classifications of cost with each coal tax  
 17 return, unless the department~~[cabinet]~~ authorizes the taxpayer to submit the  
 18 supporting information on a basis other than monthly.

19 Section 538. KRS 143.030 is amended to read as follows:

20 (1) Every individual, partnership, joint venture, association, limited liability company,  
 21 limited liability partnership, corporation, or other business entity engaged in  
 22 severing or processing coal shall, prior to July 1, 1978, or prior to severing or  
 23 processing coal in this Commonwealth, file an application for a certificate of  
 24 registration in such form as the department~~[cabinet]~~ may prescribe. Every  
 25 application shall be signed by:

26 (a) The owner if a natural person;

27 (b) A member or partner if the entity is an association, limited liability company,

1           limited liability partnership, or partnership;

2           (c) An executive officer, if the entity is a corporation, or some person specifically  
3           authorized by the corporation to sign the application, to which shall be  
4           attached written evidence of his or her authority; or

5           (d) A licensed certified public accountant, or an attorney licensed to practice law  
6           in the Commonwealth of Kentucky, acting on behalf of the owner,  
7           association, partnership, limited liability company, limited liability  
8           partnership, corporation, or other business entity.

9       (2) On or before the twentieth day of the month following the reporting period in which  
10       any coal is severed or processed, the taxpayer severing or processing such coal shall  
11       file with the department~~[cabinet]~~ a tax return in such form as the  
12       department~~[cabinet]~~ may require and remit the amount of the tax due. A tax return  
13       is required for each reporting period even though there may be no tax liability.

14      (3) Whenever any taxpayer fails to comply with any provisions of this chapter, or any  
15      rule or regulation of the department~~[cabinet]~~ relating thereto, the  
16      department~~[cabinet]~~ may order the suspension or revocation of the certificate of  
17      registration held by such taxpayer.

18      (4) Any taxpayer, including any officer of a corporation, who conducts a coal severing  
19      or processing operation in this state without obtaining a certificate of registration or  
20      after a certificate of registration has been suspended or revoked, shall be guilty of a  
21      misdemeanor and upon conviction therefor, shall be fined an amount not less than  
22      one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or  
23      imprisoned for a period not to exceed six (6) months or both such fine and  
24      imprisonment.

25       Section 539. KRS 143.035 is amended to read as follows:

26   Notwithstanding any other provisions of this chapter to the contrary, where the  
27   department~~[cabinet]~~ finds that it would facilitate and expedite the collection of the tax

1 imposed by this chapter, the department~~{cabinet}~~ may authorize the taxpayer processing  
 2 the coal to report and pay the tax which would be due from the taxpayer severing the coal.  
 3 Authorization from the department~~{cabinet}~~ shall be in the form of an agreement  
 4 executed by the taxpayer processing the coal, the taxpayer severing the coal and the  
 5 department~~{cabinet}~~. The agreement shall be in such form as the department~~{cabinet}~~  
 6 may prescribe. The agreement must be signed by the owners if the taxpayers are natural  
 7 persons; in the case of a partnership or association by a partner or member; in the case of  
 8 a corporation, by an executive officer or some person specifically authorized by the  
 9 corporation to sign the application. The director of the sales and severance tax division  
 10 shall sign for the department~~{cabinet}~~. The agreement may be terminated by any party to  
 11 the agreement upon giving thirty (30) days written notice to the other parties to the  
 12 agreement; however, the department~~{cabinet}~~ may terminate the agreement immediately  
 13 upon written notice to the other parties when either the taxpayer processing the coal or the  
 14 taxpayer severing the coal fails to comply with the terms of the agreement.

15 Section 540. KRS 143.037 is amended to read as follows:

16 (1) For the purpose of administering KRS 143.010(6)(e) and (f), the  
 17 department~~{cabinet}~~ shall provide to all registered taxpayers, who sell severed or  
 18 processed coal that will subsequently be claimed as a deduction for purchased coal,  
 19 certificates or other similar forms designed for the purpose of permitting the  
 20 processor of the coal to verify his deduction for purchased coal. If coal which has  
 21 been severed outside this state is purchased by a processor, he shall acquire a  
 22 statement in such form as the department~~{cabinet}~~ may prescribe from the person  
 23 severing the coal outside this state.

24 (2) A deduction for purchased coal shall not be allowed for purchases of coal  
 25 originating from persons severing coal in this state who are not registered to report  
 26 and pay the tax due under this chapter or for purchases of coal which cannot be  
 27 traced to a person who severed the coal outside this state.

1       Section 541. KRS 143.050 is amended to read as follows:

2       (1) Any taxpayer charged with the filing of reports and payment of the tax imposed by  
3       this chapter may be required to post a cash or corporate surety bond in an amount to  
4       be determined by the department~~[cabinet]~~.

5       (2) The Commonwealth may bring an action for a restraining order, temporary or  
6       permanent injunction to restrain or enjoin the operation of a taxpayer's business  
7       until the bond is posted. Such action may be brought in the Franklin Circuit Court  
8       or in the Circuit Court having jurisdiction of the taxpayer.

9       Section 542. KRS 143.060 is amended to read as follows:

10      (1) As soon as practicable after each return is received, the department~~[cabinet]~~ shall  
11      examine and audit it. If the amount of tax computed by the department~~[cabinet]~~ is  
12      greater than the amount returned by the taxpayer, the excess shall be assessed within  
13      four (4) years from the date the return was filed, except as provided in subsection  
14      (2) of this section, and except that in the case of a failure to file a return or of a  
15      fraudulent return, the excess may be assessed at any time. A notice of such  
16      assessment shall be mailed to the taxpayer. The time herein provided may be  
17      extended by agreement between the taxpayer and the department~~[cabinet]~~.

18      (2) For the purpose of subsections (1) and (4) of this section, a return filed before the  
19      last day prescribed by law for the filing thereof shall be considered as filed on such  
20      last day.

21      (3) Any final ruling, order or determination of the department~~[cabinet]~~ with regard to  
22      the administration of this chapter may be reviewed only in the manner provided in  
23      KRS 131.110 and 131.310 to 131.370.

24      (4) Notwithstanding the four (4) year time limitation of subsection (1), in the case of a  
25      return where the taxpayer understates the gross value by twenty-five percent (25%)  
26      or more, the excess shall be assessed by the department~~[cabinet]~~ within six (6)  
27      years from the date the return was filed.

1 Section 543. KRS 143.090 is amended to read as follows:

- 2 (1) The Transportation Cabinet shall certify to the commissioner~~[secretary]~~ of the  
3 Department of Revenue~~[Cabinet]~~ by October 1 of each fiscal year the amount  
4 required for lease rental payments to the Kentucky Turnpike Authority for resource  
5 recovery road projects.
- 6 (2) The Kentucky Coal Council shall certify to the commissioner~~[secretary]~~ of the  
7 Department of Revenue~~[Cabinet]~~ by October 1 of each year the amount of the  
8 annual lease rental payments required to be made for any energy research  
9 developmental or demonstration project undertaken by the Kentucky Coal Council.  
10 The amount so certified shall in no case exceed three million dollars (\$3,000,000) in  
11 any one (1) year.
- 12 (3) Upon receiving the certifications provided for in subsections (1) and (2) of this  
13 section, the commissioner~~[secretary]~~ of the Department of Revenue~~[Cabinet]~~ shall  
14 cause the certified amounts to be deposited from the proceeds of the tax levied by  
15 KRS 143.020 to the credit of the transportation fund and the Kentucky Coal  
16 Council, respectively, unless otherwise provided by the General Assembly in a  
17 budget bill, as follows:
- 18 (a) An amount equal to the amount certified by the Transportation Cabinet shall  
19 be deposited to the transportation fund (road fund); and
- 20 (b) An amount equal to the amount certified by the Kentucky Coal Council shall  
21 be transferred by appropriate interfund transfer procedures to the Kentucky  
22 Coal Council.
- 23 (4) All tax levied by KRS 143.020 collected in excess of the amount required to be  
24 deposited to the transportation fund (road fund) or transferred to the Kentucky Coal  
25 Council shall be deposited by the Department of Revenue~~[Cabinet]~~ to the credit of  
26 the general fund.
- 27 (5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified

under subsections (1) and (2) of this section, the commissioner~~secretary~~ of revenue shall prorate the proceeds to the transportation fund and the Kentucky Coal Council based upon the ratio of each certified amount to the total of the two (2) certified amounts.

Section 544. KRS 143A.010 is amended to read as follows:

- (1) "Department~~Cabinet~~" means the Department of Revenue~~Cabinet~~.
- (2) "Natural resource" means all forms of minerals including but not limited to rock, stone, limestone, shale, gravel, sand, clay, natural gas, and natural gas liquids which are contained in or on the soils or waters of this state. For purposes of this chapter, "natural resource" does not include coal and oil which are taxed under KRS 143.020 and 137.120.
- (3) "Severing" or "severed" means the physical removal of the natural resource from the earth or waters of this state by any means; however, "severing" or "severed" shall not include the removal of natural gas from underground storage facilities into which the natural gas has been mechanically injected following its initial removal from the earth.
- (4) "Taxpayer" means and includes any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind engaged in the business of severing and/or processing natural resources in this state for sale or use. In instances where contracts, either oral or written, are entered into whereby persons, organizations or businesses are engaged in the business of severing and/or processing a natural resource but do not obtain title to or do not have an economic interest therein, the party who owns the natural resource or has an economic interest is the taxpayer.
- (5) "Gross value" is synonymous with gross income from property as defined in section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation

1       expense, as defined in subsection (9) of this section incurred in transporting a  
2       natural resource shall not be considered as gross income from the property. Gross  
3       value is to be reported as follows:

4       (a) For natural resources severed and/or processed and sold during a reporting  
5       period, gross value is the amount received or receivable by the taxpayer.

6       (b) For natural resources severed and/or processed, but not sold during a reporting  
7       period, gross value shall be determined as follows:

8           1. If the natural resource is to be sold under the terms of an existing  
9           contract, the contract price shall be used in computing gross value.

10          2. If there is no existing contract, the fair market value for that grade and  
11          quality of the natural resource shall be used in computing gross value.

12       (c) In a transaction involving related parties, gross value shall not be less than the  
13       fair market value for natural resources of similar grade and quality.

14       (d) In the absence of a sale, gross value shall be the fair market value for natural  
15       resources of similar grade and quality.

16       (e) If severed natural resources are purchased for the purpose of processing and  
17       resale, the gross value is the amount received or receivable during the  
18       reporting period reduced by the amount paid or payable to the taxpayer  
19       actually severing the natural resource.

20       (f) If severed natural resources are purchased for the purpose of processing and  
21       consumption, the gross value is the fair market value of processed natural  
22       resources of similar grade and quality reduced by the amount paid or payable  
23       to the taxpayer actually severing the natural resource.

24       (g) In all instances, the gross value shall not be reduced by any taxes including the  
25       tax levied in KRS 143A.020, royalties, sales commissions, or any other  
26       expense.

27       (6) "Processing" includes but is not limited to breaking, crushing, cleaning, drying,

1 sizing, or loading or unloading for any purpose. "Processing" shall not include the  
 2 act of unloading or loading for shipment natural resources that have not been  
 3 severed, cleaned, broken, crushed, dried, sized or otherwise treated in Kentucky.

4 (7) "Related parties" means two (2) or more persons, organizations or businesses  
 5 owned or controlled directly or indirectly by the same interests.

6 (8) "Economic interest" for the purpose of this chapter is synonymous with the  
 7 economic interest ownership required by Internal Revenue Code, Section 611 in  
 8 effect on December 31, 1977, entitling the taxpayer to a depletion deduction for  
 9 income tax purposes with the exception that a party who only receives an arm's  
 10 length royalty shall not be considered as having an economic interest.

11 (9) (a) "Transportation expense" means:

- 12 1. The amount paid by a taxpayer to a third party for transporting natural  
 13 resources; and
- 14 2. The expenses incurred by a taxpayer using his own facilities in  
 15 transporting natural resources from the point of extraction to a  
 16 processing plant, tipple, or loading dock.

17 (b) Transportation expenses shall not include:

- 18 1. The cost of acquisition, improvements, and maintenance of real  
 19 property;
- 20 2. The cost of acquisition and operating expenses of mining and nonmining  
 21 loading or unloading facilities; or
- 22 3. The cost of acquisition and operating expenses of equipment used to  
 23 load or unload the natural resource at the point of extraction, processing  
 24 facility, or mining and nonmining loading facility.

25 Section 545. KRS 143A.040 is amended to read as follows:

26 The Department of Revenue~~[- Cabinet]~~ shall administer the provisions of this chapter and  
 27 shall have all the powers, rights, duties and authority with respect to rules and regulations,



1 collection, refunding and administration of the taxes levied by KRS 143A.020 conferred  
2 generally on it by the Kentucky Revised Statutes, including KRS Chapters 131, 134 and  
3 135.

4 Section 546. KRS 143A.050 is amended to read as follows:

- 5 (1) Every taxpayer as defined in KRS 143A.010(4) shall, before June 1, 1980, or before  
6 engaging in the severing or processing of a natural resource subjected to tax under  
7 KRS 143A.020, obtain a certificate of registration by filing with the  
8 department~~{cabinet}~~ an application in such form and containing such information as  
9 the department~~{cabinet}~~ may prescribe. Every application shall be signed by the  
10 owner if a natural person; in the case of an association or partnership, by a member  
11 or partner; in the case of a corporation, by an executive officer or some person  
12 specifically authorized by the corporation to sign the application.
- 13 (2) Whenever any taxpayer fails to comply with any provisions of this section through  
14 KRS 143A.130 or any rule or regulation of the department~~{cabinet}~~ relating thereto,  
15 the department~~{cabinet}~~ may suspend or revoke the certificate of registration held  
16 by such taxpayer.
- 17 (3) The Commonwealth may bring an action for a restraining order or a temporary or  
18 permanent injunction to restrain or enjoin operation of a taxpayer's business being  
19 operated without a certificate of registration. Such action may be brought in the  
20 Franklin Circuit Court or in the Circuit Court having jurisdiction of the taxpayer.

21 Section 547. KRS 143A.060 is amended to read as follows:

22 Notwithstanding any other provisions of this chapter to the contrary:

- 23 (1) In the case of natural resources other than natural gas, where the  
24 department~~{cabinet}~~ finds that it would facilitate and expedite the collection of the  
25 tax imposed under KRS 143A.020, the department~~{cabinet}~~ may authorize the  
26 taxpayer processing the natural resource to report and pay the tax which would be  
27 due from the taxpayer severing the natural resource. Authorization from the

1 department[cabinet] shall be in the form of an agreement executed by the taxpayer  
 2 processing the natural resource, the taxpayer severing the natural resource, and the  
 3 department[cabinet]. The agreement shall be in such form as the  
 4 department[cabinet] may prescribe. The agreement must be signed by the owners if  
 5 the taxpayers are natural persons; in the case of a partnership or association by a  
 6 partner or member; in the case of a corporation, by an executive officer or some  
 7 person specifically authorized by the corporation to sign the application. The  
 8 director of legal services shall sign for the department[cabinet]. The agreement may  
 9 be terminated by any party to the agreement upon giving thirty (30) days' written  
 10 notice to the other parties to the agreement; however, the department[cabinet] may  
 11 terminate the agreement immediately upon written notice to the other parties when  
 12 either the taxpayer processing the natural resource or the taxpayer severing the  
 13 natural resource fails to comply with the terms of the agreement; and

14 (2) (a) In the case of natural gas, except for those cases:

- 15 1. Where the person severing or severing and processing the natural gas  
 16 will sell the gas to the ultimate consumer; or
- 17 2. Where the department[cabinet] determines that the collection of the  
 18 taxes due under KRS 143A.020 would be accomplished in a more  
 19 efficient and effective manner through the severor, or severor and  
 20 processor, remitting the taxes,

21 the first person to purchase the natural gas after it has been severed, or in the  
 22 event that the natural gas has been severed and processed before the first sale,  
 23 the first person to purchase the natural gas after it has been severed and  
 24 processed, shall be liable for the collection of the tax imposed under KRS  
 25 143A.020. He shall collect the taxes imposed from the person severing, or  
 26 severing and processing, the natural gas, and he shall remit the taxes to the  
 27 department[cabinet]. In those cases where the person severing or severing and

1 processing the natural gas sells the gas to the ultimate consumer, the person so  
 2 severing or severing and processing the natural gas shall be liable for the tax  
 3 imposed under KRS 143A.020. In those cases where the department~~[cabinet]~~  
 4 determines that the collection of the taxes due under KRS 143A.020 from the  
 5 severance or severance and processing of natural gas would be accomplished  
 6 in a more efficient and effective manner through the severor, or severor and  
 7 processor, remitting the taxes, the department~~[cabinet]~~ shall set out its  
 8 determination in writing, stating its reasons for so finding, and so advise the  
 9 severor or severor and processor at least fifteen (15) days in advance of the  
 10 first reporting period for which such action would be effective.

11 (b) On or before the last day of the month following each calendar month, each  
 12 person first purchasing natural gas as described in paragraph (a) of this  
 13 subsection, shall report purchases of natural gas during the month, showing  
 14 the quantities of gas purchased, the price paid, the date of purchase, and any  
 15 other information deemed necessary by the department~~[cabinet]~~ for the  
 16 administration of the tax levied by KRS 143A.020, and shall pay the amount  
 17 of tax due, on forms prescribed by the department~~[cabinet]~~.

18 (c) On or before the last day of the month following each calendar month, each  
 19 person severing, or severing and processing natural gas, shall report the sales  
 20 of natural gas, showing the name and address of the person to whom sold, the  
 21 quantity of gas sold, the date of sale, and the sales price on forms prescribed  
 22 by the department~~[cabinet]~~.

23 Section 548. KRS 143A.070 is amended to read as follows:

24 (1) Whenever it is deemed necessary to insure compliance with KRS 143A.050 to  
 25 143A.130, the department~~[cabinet]~~ may require any taxpayer to post a cash or  
 26 corporate surety bond.

27 (2) The amount of the bond shall be fixed by the department~~[cabinet]~~ but, except as

1 provided in subsection (3) of this section, shall not be greater than three (3) times  
 2 the average quarterly liability of taxpayers filing returns for quarterly periods, five  
 3 (5) times the average monthly liability of taxpayers required to file returns for  
 4 monthly periods, or two (2) times the average periodic liability of taxpayers  
 5 permitted or required to file returns for other than monthly or quarterly periods.

6 (3) Notwithstanding the provisions of subsection (2) of this section, no bond required  
 7 under this section shall be less than five hundred dollars (\$500).

8 (4) The amount of the bond provided herein may be increased or decreased by the  
 9 department~~[cabinet]~~ at any time subject to the limitations herein provided.

10 (5) The Commonwealth may bring an action for a restraining order or a temporary or  
 11 permanent injunction to restrain or enjoin the operation of a taxpayer's business  
 12 until the bond is posted and any delinquent tax, including applicable interest and  
 13 penalties, has been paid. Such action may be brought in the Franklin Circuit Court  
 14 or in the Circuit Court having jurisdiction of the taxpayer.

15 Section 549. KRS 143A.080 is amended to read as follows:

16 (1) On or before the last day of the month following each calendar month, every  
 17 taxpayer shall report the gross value of natural resources sold, processed, or used  
 18 during the preceding month and pay the amount of tax due on forms prescribed by  
 19 the department~~[cabinet]~~.

20 (2) Returns shall be signed by the taxpayer required to file the return or by his duly  
 21 authorized agent but need not be verified by oath.

22 (3) Returns required under this section shall contain such information as the  
 23 department~~[cabinet]~~ deems necessary for the proper administration of this chapter.

24 (4) The taxpayer required to file the return provided under this section shall deliver the  
 25 return together with a remittance of the amount of the tax due to the  
 26 department~~[cabinet]~~.

27 (5) For purposes of facilitating the administration, payment, or collection of the taxes

1 levied by KRS 143A.020, the department~~[cabinet]~~ may permit or require returns or  
 2 tax payments for periods other than monthly. When permitted, returns for other than  
 3 monthly periods shall be filed and paid in such manner as the department~~[cabinet]~~  
 4 may prescribe.

5 (6) No taxpayer shall change from the reporting system required under this section or  
 6 permitted in writing by the department~~[cabinet]~~, without the written authorization  
 7 of the department~~[cabinet]~~.

8 (7) A tax return is required for each reporting period even though there may be no tax  
 9 due.

10 Section 550. KRS 143A.100 is amended to read as follows:

11 (1) As soon as practicable after each return is received, the department~~[cabinet]~~ shall  
 12 examine and audit it. If the amount of tax computed by the department~~[cabinet]~~ is  
 13 greater than the amount returned by the taxpayer, the excess shall be assessed by the  
 14 department~~[cabinet]~~ within four (4) years from the date the return was filed, except  
 15 as provided in subsection (4) of this section and except that in the case of a failure  
 16 to file a return or of a fraudulent return the excess may be assessed at any time. A  
 17 notice of such assessment shall be mailed to the taxpayer. The time herein provided  
 18 may be extended by agreement between the taxpayer and the department~~[cabinet]~~.

19 (2) For the purpose of subsections (1) and (4) of this section, a return filed before the  
 20 last day prescribed by law for the filing thereof shall be considered as filed on such  
 21 last day.

22 (3) When a business is discontinued, a determination may be made at any time  
 23 thereafter within the periods specified in subsection (1) of this section as to liability  
 24 arising out of that business, irrespective of whether the determination is issued prior  
 25 to the due date of the liability as otherwise specified in KRS 143A.080.

26 (4) Notwithstanding the four (4) year time limitation of subsection (1) of this section, in  
 27 the case of a return where the tax computed by the department~~[cabinet]~~ is greater by

1 twenty-five percent (25%) or more than the amount returned by the taxpayer, the  
2 excess shall be assessed by the department~~{cabinet}~~ within six (6) years from the  
3 date the return was filed.

4 Section 551. KRS 143A.120 is amended to read as follows:

5 In making a determination of tax liability the department~~{cabinet}~~ may offset  
6 overpayments for a period or periods, together with interest on the overpayments, against  
7 underpayments for another period or periods, against penalties, and against the interest on  
8 the underpayments.

9 Section 552. KRS 143A.130 is amended to read as follows:

- 10 (1) Every taxpayer liable for the reporting or payment of the taxes levied by KRS  
11 143A.020 shall keep such records, receipts, invoices, and other pertinent papers in  
12 such form as the department~~{cabinet}~~ may require.
- 13 (2) Every such taxpayer shall keep such records for not less than four (4) years from the  
14 making of such records unless the department~~{cabinet}~~ in writing sooner authorizes  
15 their destruction.

16 Section 553. KRS 143A.140 is amended to read as follows:

- 17 (1) The taxes paid pursuant to the provisions of this chapter shall be refunded or  
18 credited in the manner provided in KRS 134.580.
- 19 (2) A claim for refund or credit shall be made on a form prescribed by the  
20 department~~{cabinet}~~ and shall contain such information as the department~~{cabinet}~~  
21 may require.

22 Section 554. KRS 144.110 is amended to read as follows:

23 As used in KRS 144.110 to 144.130, unless the context requires otherwise:

- 24 (1) "Air transportation facilities and related equipment" means any facilities,  
25 improvements, or equipment located at an airport and used, directly or indirectly, by  
26 the certificated air carrier or its customers in the carrier's business of transporting  
27 persons or property for hire. It includes exclusive space leased or owned by the

1 certificated air carrier, common access areas, concession areas, aircraft ramps,  
2 taxiways, roadways, and vehicles which are part of an intra-airport train, subway, or  
3 automated fixed guideway transit system, but excludes any other ground vehicles  
4 and aircraft.

5 (2) "Investment" means all costs which, consistent with the fundamental project scope,  
6 the certificated air carrier, airport operator, or any bond trustee pays, commits to  
7 pay, or incurs in any manner for the purchase or acquisition of additional air  
8 transportation facilities for which construction was started after the base period, and  
9 related equipment which was not located at an airport in this Commonwealth prior  
10 to the base period. Included are costs directly related to the design, construction,  
11 purchase, acquisition, lease, use, or financing of part or all of the additional air  
12 transportation facilities and related equipment whether owned, leased, or used by  
13 the carrier or its customers. Financing costs shall be limited to the principal amount  
14 of bonds or other obligations, capitalized interest, and any related issuance costs and  
15 expenses. The total investment shall not be offset or otherwise reduced if the  
16 certificated air carrier or airport operator is or subsequently becomes eligible for any  
17 reimbursement from either federal funds or other funds which may be available,  
18 including funds generated directly or indirectly from passenger facility charges.  
19 Likewise, any subsequent adjustment to the total investment provided in a carrier's  
20 contractual obligation shall not adversely affect the amount of the investment if the  
21 fundamental project scope is not reduced.

22 (3) "Annual period" means the certificated air carrier's taxable year as provided in KRS  
23 141.140.

24 (4) "Base period" means the certificated air carrier's annual period ending in 1990.

25 (5) "Contractually obligated" or "contractual obligation" means having entered into a  
26 written agreement or commitment to make an investment in air transportation  
27 facilities and related equipment in this state.

1 (6) "Gross Kentucky real wage base" means the wages subject to Kentucky income tax  
 2 and Kentucky income tax withholding pursuant to KRS Chapter 141, paid by a  
 3 certificated air carrier during the base period adjusted to reflect changes in the  
 4 United States Department of Labor's "Employment Cost Index - Wages and  
 5 Salaries" for the transportation industry or, at the option of the carrier and upon  
 6 verification by the Department of Revenue~~[Cabinet]~~, the carrier's actual general  
 7 wage increases, through the end of the annual period for which tax credit is claimed  
 8 pursuant to KRS 144.125.

9 (7) "Nonqualifying employees" means employees of the certificated air carrier whose  
 10 employment with the carrier began after the base period; and

11 (a) The employees perform essentially the same functions which, by contract or  
 12 otherwise, were performed in this Commonwealth for the carrier by another  
 13 company at any time after the base period; or

14 (b) Their employment continued in this Commonwealth as the result of the  
 15 carrier's purchase, merger, or other acquisition of or combination with another  
 16 company.

17 (8) "Fundamental project scope" means the total project consisting of the additional air  
 18 transportation facilities and related equipment as reflected in the carrier's  
 19 application filed pursuant to KRS 144.130. It shall be measured by the carrier's  
 20 increased capacity. Measures of increased capacity may include such factors as  
 21 square footage, cost, employment, passenger or freight loadings or handling  
 22 capabilities, number of aircraft departures, and other factors related to the increased  
 23 investment.

24 Section 555. KRS 144.120 is amended to read as follows:

25 (1) Subject to the provisions of subsections (4), (5), and (6) of this section and KRS  
 26 144.130, any certificated air carrier which is engaged in the air transportation of  
 27 persons or property for hire shall be entitled to a Kentucky sales and use tax credit,



1 as computed in subsection (3) of this section, on aircraft fuel, including jet fuel,  
2 purchased after June 30, 1991, for any annual period in which the carrier meets or  
3 exceeds the investment or fuel purchase qualification requirements prescribed in  
4 subsection (2) of this section.

5 (2) To qualify for the sales and use tax credit provided in subsection (1) of this section,  
6 the certificated air carrier shall:

7 (a) Prior to or during the annual period for which the credit is claimed, have  
8 made, caused to be made, or obtained contractual obligations to make,  
9 consistent with the fundamental project scope, an investment in the aggregate  
10 of at least three hundred million dollars (\$300,000,000) in new and expanded  
11 air transportation facilities and related equipment in this Commonwealth; or

12 (b) During the annual period for which the credit is claimed, purchase and place  
13 into the fuel supply tank of its aircraft in this state not less than one hundred  
14 million (100,000,000) gallons of aircraft fuel, including jet fuel, for the  
15 carrier's direct operation of the aircraft in interstate or foreign commerce  
16 exclusively for the conveyance of property or passengers for hire. Nominal use  
17 of the aircraft fuel in intrastate commerce shall not affect this provision.

18 (3) The sales and use tax credit shall be an amount equal to the Kentucky sales and use  
19 tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the  
20 certificated air carrier for its storage, use, or other consumption during the annual  
21 period, less four million dollars (\$4,000,000). The four million dollar (\$4,000,000)  
22 amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel  
23 attributable to operations of any other company purchased, merged, acquired, or  
24 otherwise combined with the certificated air carrier after the base period. The  
25 amount of the increase shall be based on the Kentucky sales and use tax applicable  
26 to such aircraft fuel purchased during the twelve (12) month period immediately  
27 preceding the purchase, merger, or other acquisition by or combination with the

1 certificated air carrier.

2 (4) To facilitate administration of the tax credit provided pursuant to this section, each  
 3 qualifying certificated air carrier purchasing aircraft fuel, including jet fuel, on  
 4 which the Kentucky sales and use tax for the annual period is reasonably expected  
 5 to exceed the amount provided in subsection (3) of this section shall report and pay  
 6 directly to the Department of Revenue~~[Cabinet]~~ the tax applicable to aircraft fuel,  
 7 including jet fuel, purchased for its storage, use, or other consumption during the  
 8 annual period, less the credit provided herein.

9 (5) Notwithstanding the provisions of subsection (1) of this section, no certificated air  
 10 carrier shall be entitled to any tax credit pursuant to this section unless the carrier  
 11 meets the requirements of subsection (2) of this section by the annual period ending  
 12 in 1997.

13 (6) Each certificated air carrier claiming the sales and use tax credit authorized pursuant  
 14 to this section shall file an annual sales and use tax reconciliation report with the  
 15 Department of Revenue~~[Cabinet]~~ on or before the fifteenth day of the fourth month  
 16 following the end of each annual period for which the credit is claimed. The report  
 17 shall be filed as provided in KRS 144.137.

18 Section 556. KRS 144.125 is amended to read as follows:

19 (1) Subject to the provisions of subsections (4) through (9) of this section and KRS  
 20 144.130, any certificated air carrier which is engaged in the air transportation of  
 21 persons or property for hire shall be entitled to a general tax credit, as computed in  
 22 subsection (3) of this section, for any annual period in which the certificated air  
 23 carrier meets or exceeds the investment and gross wage qualification requirements  
 24 prescribed in subsection (2) of this section and has elected to begin claiming the  
 25 credit.

26 (2) To qualify for the general tax credit provided in subsection (1) of this section, the  
 27 certificated air carrier shall:

- 1 (a) Prior to or during the annual period for which the credit is claimed, have  
2 made, caused to be made, or obtained contractual obligations to make,  
3 consistent with the fundamental project scope, an investment in the aggregate  
4 of at least three hundred million dollars (\$300,000,000) in new and expanded  
5 air transportation facilities and related equipment in this Commonwealth; and
- 6 (b) During the annual period for which the credit is claimed, have gross wages  
7 subject to Kentucky income tax and Kentucky income tax withholding  
8 pursuant to KRS Chapter 141 which are at least fifteen million dollars  
9 (\$15,000,000) greater than its gross Kentucky real wage base. In calculating  
10 the gross wages paid for the annual period for which the credit is claimed,  
11 there shall not be included the wages of any nonqualifying employees of the  
12 certificated air carrier.
- 13 (3) The general tax credit shall be an amount equal to ten percent (10%) of the increase  
14 in gross wages subject to Kentucky income tax and Kentucky income tax  
15 withholding paid by the certificated air carrier during the annual period as compared  
16 to the carrier's gross Kentucky real wage base. In calculating the gross wages paid  
17 for the annual period for which the credit is claimed, there shall not be included the  
18 wages of any nonqualifying employees of the certificated air carrier.
- 19 (4) The general tax credit may accrue for only five (5) consecutive annual periods of  
20 the qualifying certificated air carrier. The five (5) year limitation period shall begin  
21 at the election of the qualifying certificated air carrier, but not later than the carrier's  
22 annual period beginning in 1997. The tax credit shall accrue to the carrier only for  
23 the annual periods during which the carrier meets or exceeds the requirements as  
24 provided in subsection (2) of this section.
- 25 (5) The general tax credit authorized to a qualifying certificated air carrier shall not  
26 exceed three million dollars (\$3,000,000) for any annual period.
- 27 (6) The general tax credit authorized to a qualifying certificated air carrier shall not

1 exceed a total of fifteen million dollars (\$15,000,000).

- 2 (7) The general tax credit authorized shall be claimed by the qualifying certificated air  
 3 carrier first against its Kentucky corporation income tax liability, then against its  
 4 Kentucky corporation license tax liability, with any remaining balance to be claimed  
 5 against its Kentucky sales and use tax liability. The credit shall not be applied to any  
 6 other liability due the Commonwealth. The Department of Revenue~~[Cabinet]~~ may  
 7 prescribe the method or manner for the qualifying certificated air carrier to claim  
 8 the tax credit on applicable tax returns filed with the department~~[cabinet]~~.
- 9 (8) If the tax liabilities against which the tax credit is to be claimed pursuant to  
 10 subsection (7) of this section are not sufficient to fully absorb the allowable tax  
 11 credit, or if a net operating loss carryback or other subsequent adjustment reduces  
 12 the carrier's liability against which a credit authorized by this section has previously  
 13 been claimed, the unused or excess balance of the allowable credit may be applied  
 14 against the carrier's liabilities for the specified taxes for previous or subsequent  
 15 annual periods within the five (5) year limitation period. However, no refund in  
 16 excess of the net tax actually paid by the carrier shall be made by the  
 17 Commonwealth because of the carrier's application of the unused or excess credit.  
 18 Interest shall not apply to any tax refunded for a prior period resulting from the  
 19 credit carryback provisions of this subsection.
- 20 (9) Each certificated air carrier claiming the general tax credit authorized pursuant to  
 21 this section shall file an annual general tax credit reconciliation report with the  
 22 Department of Revenue~~[Cabinet]~~ on or before the fifteenth day of the fourth month  
 23 following the end of each annual period for which the credit is claimed. The report  
 24 shall be filed as provided in KRS 144.135 to 144.139 for each type tax against  
 25 which the credit is applied.

26 Section 557. KRS 144.130 is amended to read as follows:

- 27 (1) No certificated air carrier shall claim any tax credit pursuant to KRS 144.110 to

1 144.130 until its entitlement thereto is first determined by the Department of  
 2 Revenue~~[Cabinet]~~. Upon application to the department~~[cabinet]~~, a certificated air  
 3 carrier desiring to claim a tax credit pursuant to KRS 144.110 to 144.130 shall  
 4 present documentation as may reasonably be required by the department~~[cabinet]~~ to  
 5 define the fundamental project scope and verify the required investment, the  
 6 increased capacity which is to result from the investment, and the anticipated  
 7 project completion date. Documentation may include the carrier's contractual  
 8 obligations, its corporation board resolutions or stockholder reports, airport board  
 9 resolutions or actions, related financial transactions, and any other documentation  
 10 which defines or describes the fundamental project scope and the carrier's planned  
 11 investment and increased capacity. The commissioner of the Department of  
 12 Revenue~~[secretary of the Revenue Cabinet]~~ shall, upon the department's~~[cabinet's]~~  
 13 review of the documentation submitted by the carrier, make a tax credit entitlement  
 14 determination and immediately give notice thereof to the carrier. In making an  
 15 entitlement determination, the Department of Revenue~~[Cabinet]~~ shall seek  
 16 whatever third-party counsel and advice deemed appropriate to satisfy itself that the  
 17 fundamental project scope is sufficient to support at least a three hundred million  
 18 dollar (\$300,000,000) investment in additional air transportation facilities and  
 19 related equipment. An entitlement granted by the commissioner of the Department  
 20 of Revenue~~[secretary of the Revenue Cabinet]~~ for a certificated air carrier to claim  
 21 any tax credit pursuant to KRS 144.110 to 144.139 shall be subject to the provisions  
 22 of subsection (2) of this section.

- 23 (2) Any certificated air carrier which is granted entitlement to claim any tax credit  
 24 pursuant to KRS 144.110 to 144.130 shall, by the anticipated project completion  
 25 date specified in the carrier's application filed pursuant to subsection (1) of this  
 26 section, but not later than the carrier's annual period ending in 1997, demonstrate to  
 27 the satisfaction of the Department of Revenue~~[Cabinet]~~ that an investment of at

1 least three hundred million dollars (\$300,000,000) has been made or that the carrier  
 2 has completed at least ninety percent (90%) of the fundamental project scope. An  
 3 investment of three hundred million dollars (\$300,000,000) or the completion of at  
 4 least ninety percent (90%) of the fundamental project scope shall constitute  
 5 fulfillment of the investment requirement. Without precluding the carrier's  
 6 demonstration by other means, completion of ninety percent (90%) of the projected  
 7 increased passenger or freight handling or loading capacity, as measured by the  
 8 number of gates or loading facilities, or completion of at least ninety percent (90%)  
 9 of the total square footage of the buildings, including the fixtures and equipment  
 10 therefor, which were to be constructed and equipped as a part of the fundamental  
 11 project scope shall demonstrate completion of at least ninety percent (90%) of the  
 12 fundamental project scope. If the carrier has not made an investment of at least three  
 13 hundred million dollars (\$300,000,000) and has not completed at least ninety  
 14 percent (90%) of the fundamental project scope by the anticipated project  
 15 completion date, but not later than the carrier's annual period ending in 1997, all or  
 16 a portion of the tax credit otherwise authorized pursuant to KRS 144.110 to 144.130  
 17 shall be forfeited as follows:

Fundamental Project Scope	Portion of
Completion Percentage	Credit Forfeited
At least 80%, but less than 90%	25%
At least 70%, but less than 80%	50%
Less than 70%	100%

- 23 (3) The Department of Revenue~~[Cabinet]~~ shall be responsible for determining the  
 24 extent of the certificated air carrier's completion of the fundamental project scope.  
 25 In making the determination, the department~~[cabinet]~~ shall consult with the  
 26 certificated air carrier, the affected airport board and, if deemed necessary, with  
 27 other persons.

- 1 (4) Subject to the provisions of KRS 131.110, notwithstanding the provisions of KRS  
 2 136.076, 139.620, 141.210, 413.120, or any other provision of the Kentucky  
 3 Revised Statutes limiting the time for assessing taxes, the Department of Revenue~~Cabinet~~  
 4 shall assess against the carrier the amount of any tax credit previously  
 5 claimed which is forfeited pursuant to subsection (2) of this section. Interest at the  
 6 tax interest rate as defined in KRS 131.010(6) shall apply to the forfeited tax credit  
 7 amount from the date the credit was claimed until reimbursement is made to the  
 8 Commonwealth. The carrier shall be allowed to claim in any applicable subsequent  
 9 annual periods only that portion of the credit otherwise authorized pursuant to KRS  
 10 144.110 to 144.130 which has not been forfeited as provided in this section.
- 11 (5) The dates set forth in subsection (2) of this section may be extended by the  
 12 commissioner of the Department of Revenue~~secretary of the Revenue Cabinet~~,  
 13 upon request by the carrier, by an amount of time equal to any delay caused by  
 14 circumstances reasonably beyond the carrier's control which prevent the carrier  
 15 from completing the project by the anticipated project completion date, including  
 16 construction delays and delays resulting from the carrier's compliance with  
 17 applicable federal, state, or local laws, rules and regulations, or an order or  
 18 judgment of a court or administrative agency. They may also be extended by the  
 19 commissioner of the Department of Revenue~~secretary of the Revenue Cabinet~~  
 20 upon the carrier's showing of any other good cause. The Governor and the  
 21 Legislative Research Commission shall be immediately notified of any extension  
 22 granted pursuant to this subsection and the reason for granting the same.
- 23 (6) Upon the making of an initial tax credit entitlement determination pursuant to  
 24 subsection (1) of this section, the Department of Revenue~~Cabinet~~ shall  
 25 immediately give written notification to the Governor and the Legislative Research  
 26 Commission and shall include a description of the fundamental project scope and a  
 27 summary of the estimated costs. Upon making a final determination as provided in

1 subsections (2) and (3) of this section, the Department of Revenue~~[Cabinet]~~ shall  
2 immediately give written notification to the Governor and the Legislative Research  
3 Commission of the extent to which the fundamental project scope was completed.  
4 Such notification shall include a summary of the total costs expended for the  
5 completed project and a description of any changes to or deviations from the  
6 fundamental project scope.

7 Section 558. KRS 144.132 is amended to read as follows:

8 (1) Subject to the provisions of subsection (2) of this section, any certificated air carrier  
9 which is engaged in the air transportation of persons or property for hire shall be  
10 entitled to a credit against the Kentucky sales and use tax paid on aircraft fuel,  
11 including jet fuel, purchased after June 30, 2000, as determined under subsection  
12 (2) of this section.

13 (2) For fiscal years beginning after June 30, 2000, certificated air carriers shall pay the  
14 first one million dollars (\$1,000,000) in Kentucky sales and use tax due that is  
15 applicable to the purchase of aircraft fuel, including jet fuel. The sales and use tax  
16 credit shall be an amount equal to the Kentucky sales and use tax otherwise  
17 applicable to the purchase of aircraft fuel, including jet fuel, purchased by the  
18 certificated air carrier during each fiscal year beginning after June 30, 2000, in  
19 excess of one million dollars (\$1,000,000).

20 (3) Each certificated air carrier purchasing aircraft fuel, including jet fuel, on which  
21 Kentucky sales and use tax for the fiscal year is reasonably expected to exceed one  
22 million dollars (\$1,000,000) shall report and pay directly to the Department of  
23 Revenue~~[Cabinet]~~ the tax applicable to the purchase of aircraft fuel, including jet  
24 fuel, purchased for storage use or other consumption during the fiscal year.

25 (4) Each certificated air carrier claiming the sales and use tax credit authorized pursuant  
26 to this section shall file an annual sales and use tax reconciliation report with the  
27 Department of Revenue~~[Cabinet]~~ on or before October 15 of the fiscal year



1 following the fiscal year for which the credit is claimed. The report shall be filed as  
2 provided in KRS 144.137.

3 Section 559. KRS 144.135 is amended to read as follows:

4 The general tax credit reconciliation report required to be filed by qualifying certificated  
5 air carriers pursuant to KRS 144.125 shall be submitted to the Department of Revenue  
6 ~~Cabinet~~ in a form and contain information and documentation as the  
7 department~~cabinet~~ may reasonably require to verify the carrier's computation of the tax  
8 credit and the use of the credit against the tax levied by KRS 136.070.

9 Section 560. KRS 144.137 is amended to read as follows:

10 The sales and use tax aviation fuel tax credit reconciliation report and the general tax  
11 credit reconciliation report required to be filed by qualifying certificated air carriers  
12 pursuant to KRS 144.120, 144.125, and 144.132 shall be submitted to the Department of  
13 Revenue~~Cabinet~~ in a form and contain information and documentation as the  
14 department~~cabinet~~ may reasonably require to verify the carrier's computation of the  
15 applicable tax credit and the use of the credit against the taxes levied by KRS Chapter  
16 139.

17 Section 561. KRS 144.139 is amended to read as follows:

18 The general tax credit reconciliation report required to be filed by qualifying certificated  
19 air carriers pursuant to KRS 144.125 shall be submitted to the Department of Revenue  
20 ~~Cabinet~~ in a form and contain information and documentation as the  
21 department~~cabinet~~ may reasonably require to verify the carrier's computation of the tax  
22 credit and the use of the credit against the tax levied by KRS 141.040.

23 Section 562. KRS 147A.025 is amended to read as follows:

24 (1) Except as provided in subsection (7) of this section, the Department for Local  
25 Government with the advice and approval of the state local finance officer annually  
26 shall conduct a program to instruct county clerks, sheriffs, jailers, and county  
27 treasurers respecting their duties and responsibilities in the collection and

- 1 expenditure of public moneys, subject to their control and jurisdiction.
- 2 (2) The department with the advice and approval of the state local finance officer shall  
3 establish the content and publish instructional materials essential to implementing  
4 this program. Subsequent to every regular and extraordinary session of the General  
5 Assembly, the department with the state local finance officer shall review and  
6 revise, if necessary, the program when it is found not to be consistent with state law.
- 7 (3) The department may assess a charge to any person requesting copies of instructional  
8 materials published as provided by this section to cover actual costs of printing and  
9 handling these materials, except that no county official shall be charged for  
10 instructional materials provided for his use. Funds accruing from the sale of  
11 instructional materials shall be paid into the State Treasury, and the State Treasurer  
12 shall pay these funds into an account of the department to defray the costs of  
13 printing and handling these materials.
- 14 (4) The commissioner of the department with the advice and approval of the state local  
15 finance officer may prescribe completion standards for this program, and may,  
16 subject to subsection (6) of this section, establish the number, type and sequence of  
17 instructional sessions to be conducted by the department; but the commissioner of  
18 the department shall not require the attendance of any county official, nor shall he  
19 prescribe any requirement or standard that restricts or impairs a county official or  
20 elected candidate in the lawful pursuit or conduct of the office to which he is  
21 elected.
- 22 (5) The department shall notify in advance each county clerk, sheriff, jailer, and county  
23 treasurer respecting instructional session pertinent to his office. Notification shall be  
24 by mail, and it shall be posted no later than twenty-one (21) days prior to the  
25 instructional session. At a minimum, the notice shall give the date, time, place and  
26 title of the instruction session.
- 27 (6) The department shall conduct this program by providing a one (1) day session at

various locations throughout this state in order to minimize the travel expenses of those officials attending, provided that the aggregate number of all sessions shall not exceed five (5) during any calendar year. Except as provided in subsection (7) of this section, the department may commence instruction anytime during a calendar year.

(7) The department shall not conduct a program as provided by this section during any calendar year when a general election is held for every constitutional county office.

The department, however, shall commence instruction for the succeeding year within eighty (80) days following said general election.

(8) Every county official who attends an instructional session shall be paid his actual and necessary expenses in attending from the operating funds of his office.

(9) In fulfilling the requirements of this section, the department shall confer with and coordinate its duties and responsibilities with the Finance and Administration Cabinet~~[, the Revenue Cabinet]~~ and the Auditor of Public Accounts. The department shall also confer with those state universities whose mission statements mandate their participation in the training of public officials, the state associations for those officials listed in subsection (1) of this section, and the Kentucky Association of Counties, respecting the implementation of this section.

Section 563. KRS 147B.100 is amended to read as follows:

(1) There is recognized as established the Governor's Financial Policy Council. The purpose of the council shall be to advise the Governor on economic and financial matters relating to revenue, budgetary, and financial management policies.

(2) The council shall consist of the secretary of Finance and Administration Cabinet, ~~[the secretary of the Revenue Cabinet,]~~ the state budget director, and four (4) at-large members, appointed by the Governor, who shall be persons that are knowledgeable by reason of their experience and academic training, in the fields of business, financial management or public policy. The Governor shall designate one

- 1 (1) of the four (4) at-large members to serve as chairman of the council.
- 2 (3) The terms of the at-large members shall coincide with the elected term of the  
3 Governor who appointed them. Vacancies in the at-large membership of the council  
4 shall be filled by appointment by the Governor for the unexpired portion of the  
5 vacated member's term.
- 6 (4) The council shall meet at least annually and shall hold other meetings deemed  
7 necessary by a majority of the membership or when requested by the Governor.
- 8 (5) The members of the Governor's council shall serve without compensation for their  
9 services but shall be reimbursed, subject to the provisions of KRS 45.101 and state  
10 travel regulations, for all actual and necessary expenses incurred in the performance  
11 of their duties as members of the council.

12 Section 564. KRS 148.855 is amended to read as follows:

- 13 (1) The secretary of the Tourism Development Cabinet shall establish standards for the  
14 making of applications for inducements and the recommendation to the authority of  
15 eligible companies and their tourism attraction projects by the promulgation of  
16 administrative regulations in accordance with KRS Chapter 13A.
- 17 (2) The secretary of the Tourism Development Cabinet shall consult with the authority  
18 when establishing standards to ensure that standards established pursuant to  
19 subsection (1) of this section and KRS 148.857(1) do not conflict.
- 20 (3) With respect to each eligible company making an application to the secretary of the  
21 Tourism Development Cabinet for inducements, and with respect to the tourism  
22 attraction project described in the application, the secretary of the Tourism  
23 Development Cabinet shall make inquiries and request materials of the applicant  
24 that shall include, but not be limited to, marketing plans for the project that target  
25 individuals who are not residents of the Commonwealth; a description and location  
26 of the project; capital and other anticipated expenditures for the project that indicate  
27 that the total cost of the project shall exceed one million dollars (\$1,000,000),

1 except for a theme restaurant destination attraction's project cost, which shall  
2 exceed five million dollars (\$5,000,000), and the anticipated sources of funding  
3 therefor; the anticipated employment and wages to be paid at the project; business  
4 plans which indicate the average number of days in a year in which the project will  
5 be in operation and open to the public; and the anticipated revenues and expenses  
6 generated by the project. If the tourism attraction project is an entertainment  
7 destination center, the sales tax refund shall be dedicated to a public infrastructure  
8 purpose that shall relate to the tourism attraction project and shall be approved by  
9 the secretary of the Tourism Development Cabinet. The applicant shall submit the  
10 public infrastructure purpose with its application. Based upon a review of these  
11 materials, if the secretary of the Tourism Development Cabinet determines that the  
12 eligible company and the tourism attraction project may reasonably satisfy the  
13 criteria for final approval in subsection (4) of this section, then the secretary of the  
14 Tourism Development Cabinet may submit a written request to the authority  
15 requesting that the authority consider a preliminary approval of the eligible  
16 company and the tourism attraction project.

17 (4) After receiving a preliminary approval by the authority, the secretary of the Tourism  
18 Development Cabinet shall engage the services of a competent consulting firm to  
19 analyze the data made available by the eligible company and to collect and analyze  
20 additional information necessary to determine that, in the independent judgment of  
21 the consultant, the tourism attraction project:

22 (a) Shall attract at least twenty-five percent (25%) of its visitors from among  
23 persons who are not residents of the Commonwealth, except for a theme  
24 restaurant destination attraction, which shall attract a minimum of fifty  
25 percent (50%) of its visitors from among persons who are not residents of the  
26 Commonwealth;

27 (b) Shall have costs in excess of one million dollars (\$1,000,000), except for a

- 1 theme restaurant destination attraction, which shall have costs in excess of  
 2 five million dollars (\$5,000,000);
- 3 (c) Shall have a significant and positive economic impact on the Commonwealth  
 4 considering, among other factors, the extent to which the tourism attraction  
 5 project will compete directly with existing tourism attractions in the  
 6 Commonwealth and the amount by which increased tax revenues from the  
 7 tourism attraction project will exceed the credit given to the approved  
 8 company;
- 9 (d) Shall produce sufficient revenues and public demand to be operating and open  
 10 to the public for a minimum of one hundred (100) days per year, except for a  
 11 theme restaurant destination attraction, which shall be operating and open to  
 12 the public for a minimum of three hundred (300) days per year; and
- 13 (e) Shall not adversely affect existing employment in the Commonwealth.
- 14 (5) The independent consulting firm shall consult with the authority, the Office of the  
 15 State Budget Director and, the Finance and Administration Cabinet~~, and the~~  
 16 ~~Revenue Cabinet~~ in the development of a report on the proposed tourism attraction  
 17 project. The Office of the State Budget Director and, the Finance and  
 18 Administration Cabinet~~, and the Revenue Cabinet~~ shall agree as to the  
 19 methodology to be used and assumptions to be made by the independent consultant  
 20 in preparing its report. On the basis of the independent consultant's report and prior  
 21 to any approval of a project by the authority, the Office of the State Budget Director  
 22 and, the Finance and Administration Cabinet~~, and the Revenue Cabinet~~ shall  
 23 certify to the authority whether there is a projected net positive economic impact to  
 24 the Commonwealth and the expected amount of incremental state revenues from the  
 25 project. Approval shall not be granted if it is determined that there is no projected  
 26 net positive economic impact to the Commonwealth.
- 27 (6) The eligible company shall pay for the cost of the consultant's report and shall

1 cooperate with the consultant and provide all of the data that the consultant deems  
2 necessary to make its determination under subsection (4) of this section.

- 3 (7) After a review of relevant materials, the consultant's report, and completion of other  
4 inquiries, the secretary of the Tourism Development Cabinet shall, by written  
5 notification to the authority, provide a recommendation to the authority regarding  
6 final approval of the tourism attraction project.

7 Section 565. KRS 148.859 is amended to read as follows:

- 8 (1) The authority, upon adoption of its final approval, may enter into with any approved  
9 company an agreement with respect to its tourism attraction project. The terms and  
10 provisions of each agreement shall include, but not be limited to:

11 (a) The amount of approved costs, which shall be determined by negotiations  
12 between the authority and the approved company. Any increase in approved  
13 costs incurred by the approved company and agreed to by the authority shall  
14 apply retroactively for purposes of calculating the carry forward for unused  
15 inducements as set forth in KRS 139.536(3) for tax years commencing on or  
16 after July 1, 2004;

17 (b) A date certain by which the approved company shall have completed the  
18 tourism attraction project. Upon request from any approved company that has  
19 received final approval prior to or after July 15, 2000, the authority shall grant  
20 an extension or change, which in no event shall exceed three (3) years from  
21 the date of final approval, to the completion date as specified in the agreement  
22 of an approved company. Within three (3) months of the completion date, the  
23 approved company shall document the actual cost of the project through a  
24 certification of the costs to be provided by an independent certified public  
25 accountant acceptable to the authority;

- 26 (c) The following provisions:

27 1. The term shall be ten (10) years from the later of:

- 1           a.    The date of the final approval of the project; or
- 2           b.    The original completion date specified in the agreement, if this
- 3                completion date is within three (3) years of the date of the final
- 4                approval of the project. An extension of the original completion
- 5                date shall not alter the commencement date of the term;
- 6           2.    Within forty-five (45) days after the end of each fiscal year of the
- 7                approved company, during the term of the agreement, the approved
- 8                company shall supply the authority with such reports and certifications
- 9                as the authority may request demonstrating to the satisfaction of the
- 10              authority that the approved company is in compliance with the
- 11              provisions of KRS 139.536 and KRS 148.851 to 148.860. Based upon a
- 12              review of these materials and other documents that may be made
- 13              available, the authority shall then certify to the Department of Revenue{
- 14              ~~Cabinet~~} that the approved company is in compliance with this section;
- 15              and
- 16           3.    The approved company shall not receive a sales tax refund as prescribed
- 17                by KRS 139.536 with respect to any fiscal year if:
- 18              a.    In any year following the fourth year of the agreement, the tourism
- 19                    attraction project fails to attract at least twenty-five percent (25%)
- 20                    of its visitors from among persons who are not residents of the
- 21                    Commonwealth, except for a theme restaurant destination
- 22                    attraction, which shall attract a minimum of fifty percent (50%) of
- 23                    its visitors from among persons who are not residents of the
- 24                    Commonwealth; or
- 25              b.    In any year following the first year of the agreement, the tourism
- 26                    attraction project is not operating and open to the public for at least
- 27                    one hundred (100) days; and



(d) Upon request from an approved company that has completed at least fifty percent (50%) of an entertainment destination center, the authority shall grant an extension of up to three (3) years to the completion date specified in the agreement of the approved company, in addition to the extension provided for in paragraph (b) of this subsection. In no event shall the completion date be more than six (6) years from the date of final approval. The extension provided for in this paragraph shall be subject to the following conditions:

1. The approved company shall have spent or have contractually obligated to spend an amount equal to or greater than the amount of approved costs set forth in the initial agreement;
2. The term of the agreement shall not be extended; and
3. The scope of the entertainment destination center, as set forth in the initial agreement, shall not be altered to include new or additional entertainment and leisure options.

(2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.

(3) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund under KRS 139.536 from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851.

Section 566. KRS 149.570 is amended to read as follows:

- (1) When the property tax rolls are delivered to the county clerk by the property valuation administrator, as required by law, the county clerk shall compute the assessment due the county from each owner of timberland in accordance with the rate fixed by the county governing body and the amount of timberland acreage

1 indicated on the property tax roll.

2 (2) The computation shall be made on the regular tax bills in such manner as may be  
3 directed by regulation of the Department of Revenue~~[Cabinet]~~.

4 (3) The county clerk shall deliver these bills to the sheriff for collection as provided in  
5 KRS 133.220(3).

6 Section 567. KRS 151.730 is amended to read as follows:

7 (1) The authority is hereby authorized to provide, at one (1) time or from time to time,  
8 for the issuance of its revenue bonds for the purpose of paying all or any part of the  
9 cost of any one (1) or more projects undertaken pursuant to KRS 151.720. The  
10 principal of and the interest on such bonds shall in each instance be payable solely  
11 from a special fund provided for the payment, with revenues derived from water use  
12 fees collected from all facilities using water from the Kentucky River basin, except  
13 those facilities using water primarily for agricultural purposes, pledged to be set  
14 aside and deposited in such special fund. The bonds of any issue may be in one (1)  
15 or more series and any one (1) or more such series may enjoy equal or subordinate  
16 status with respect to the pledge of funds from which they are payable, shall be  
17 dated, shall bear interest, shall mature at such time or times not exceeding the  
18 thirtieth anniversary of their respective dates, all as may be provided by the  
19 authority, and may be made redeemable before maturity, at the option of the  
20 authority, at such price or prices and under such terms and conditions as may be  
21 fixed by the authority prior to the issuance of the bonds. The authority shall  
22 determine the form of bonds including any interest coupons to be attached thereto,  
23 and shall fix the denomination or denominations of the bonds and the place or  
24 places for payment of principal and interest, which may be at any bank or trust  
25 company within or without the Commonwealth. The bonds shall be signed by the  
26 facsimile signature of the chairman of the authority, and the seal of the authority or  
27 a facsimile thereof shall be affixed thereto and attested by the manual signature of

1 the treasurer of the authority, and any coupons attached thereto shall bear the  
2 facsimile signature of the chairman of the authority. In case any officer whose  
3 signature or a facsimile of whose signature shall appear on any bonds or coupons  
4 shall cease to be such officer before the delivery of such bonds, such signature or  
5 such facsimile shall nevertheless be valid and sufficient for all purposes the same as  
6 if he had remained in office until such delivery. All bonds issued under the  
7 provisions of this section shall have and are hereby declared to have all qualities  
8 and incidents of negotiable instruments under the uniform commercial code of the  
9 Commonwealth. The bonds may be issued in coupon or in registered form, or both,  
10 as the authority may determine, and provision may be made for the registration of  
11 any coupon bonds as to principal alone and also as to both principal and interest,  
12 and for the reconversion into coupon bonds of any bonds registered as to both  
13 principal and interest. The authority may sell such bonds at public sale, and for such  
14 price as it may determine will best effect the purposes of KRS 151.720.

- 15 (2) The proceeds of the bonds of each issue shall be used solely for the payment of the  
16 cost of the project or projects for which such bonds shall have been issued, and shall  
17 be disbursed in such a manner and under such restrictions, if any, as the authority  
18 may provide in the proceedings authorizing the issuance of such bonds or in the  
19 trust indenture securing the same. If the proceeds of the bonds of any issue, by error  
20 of estimates or otherwise, shall be less than such cost, additional bonds may in like  
21 manner be issued to provide the amount of such deficit, and, unless otherwise  
22 provided in the proceedings authorizing the issuance of such bonds or in the trust  
23 indenture securing the same, shall be deemed to be of the same issue and shall be  
24 entitled to payment from the same fund without preference or priority of the bonds  
25 first issued. If the proceeds of the bonds of any issue shall exceed such cost, the  
26 surplus shall be deposited to the credit of the sinking fund or funds for such bonds  
27 or any account or accounts therein as the authority shall have provided in the

- 1       proceedings or trust indenture authorizing and securing such bonds.
- 2       (3) Prior to the preparation of definitive bonds, the authority may, under like  
3       restrictions, issue interim receipts or temporary bonds, with or without coupons,  
4       exchangeable for definitive bonds when such bonds shall have been executed and  
5       are available for delivery. The authority may also provide for the replacement of any  
6       bonds which shall become mutilated or shall be destroyed or lost.
- 7       (4) The authority may issue revenue bond anticipation notes.
- 8       (5) Any holder of bonds issued under the provisions of this section or any of the  
9       coupons appertaining thereto, and the trustee under any trust indenture, except to  
10      the extent of the rights given in this section, may be restricted by such trust  
11      indenture or proceedings, may, either at law or in equity, by suit, action, mandamus,  
12      or other proceedings, protect and enforce any and all rights under the laws of the  
13      Commonwealth or granted under this section or under such trust indenture or the  
14      proceedings authorizing the issuance of such bonds, and may enforce and compel  
15      the performance of all duties required by this section or by such trust indenture or  
16      proceedings to be performed by the authority or by any officer or employee thereof.
- 17      (6) Revenue bonds issued under the provisions of this section shall not be a debt,  
18      liability, or obligation of the Commonwealth or any political subdivision thereof  
19      and shall not be a pledge of the faith and credit of the Commonwealth or any  
20      political subdivision thereof.
- 21      (7) Revenue bonds issued by the authority shall be subject to the jurisdiction and  
22      approval of the State Property and Buildings Commission and the Capital Projects  
23      and Bond Oversight Committee and shall be subject to review by the Office of  
24      Financial Management established in Section 11 of this Act.
- 25      (8) The authority shall not be required to pay any taxes and assessments to the  
26      Commonwealth or any county, municipality, or other governmental subdivision of  
27      the Commonwealth upon any of its property or upon its obligations or other

1 evidences of indebtedness pursuant to the provisions of this section, or upon any  
2 moneys, funds, revenues, or other income held or received by the authority and the  
3 bonds or notes of the authority and the income therefrom shall at all times be  
4 exempt from taxation, except for death and gift taxes and taxes of transfers.

- 5 (9) Contractual expenses to construct, reconstruct, provide for the major maintenance,  
6 or repair the Kentucky River locks and dams, or to maintain the channel, or to  
7 acquire real or personal property pertaining thereto, or to construct, reconstruct,  
8 maintain, or repair such property, shall be paid from the proceeds of the revenue  
9 bonds. Expenses for administrative services and necessary travel expenses and per  
10 diem compensation of authority members, shall not be paid from the proceeds of the  
11 revenue bonds. Nor shall the cabinet's cost of operating the locks be paid from the  
12 proceeds of the revenue bonds.

13 Section 568. KRS 153.180 is amended to read as follows:

- 14 (1) There is hereby established a nonprofit foundation to be known as the Kentucky  
15 Foundation for the Arts. The purpose of the foundation shall be to enhance the  
16 stability of Kentucky's arts organizations and to ensure Kentuckians have access to  
17 the arts through the support of an endowment fund.
- 18 (2) Funding for the foundation shall be obtained through state appropriations, gifts,  
19 grants, and any other funds from the public and private sectors. The foundation  
20 board shall have the authority to solicit, accept, and receive contributions from the  
21 public and private sectors to match public funding. Moneys in the foundation fund  
22 shall not lapse to the general fund at the end of the fiscal year. Moneys in the  
23 foundation fund shall be invested by the Office of Financial Management  
24 established in Section 11 of this Act consistent with the provisions of KRS Chapter  
25 42, and interest income earned shall be credited to the foundation fund. The  
26 foundation board may use the investment income for the purpose of awarding  
27 matching grants to nonprofit arts organizations to carry out the following programs:

- 1 (a) The Performing Arts and Visual Arts Touring Subsidy Program shall support  
2 tours and exhibitions for the education and enjoyment of audiences throughout  
3 the state.
- 4 (b) The Institutional Stabilization Program shall provide operating funds to  
5 achieve short-term or long-term stability of arts organizations.
- 6 (3) The foundation shall be governed by a board of trustees consisting of six (6)  
7 members appointed by the Governor on recommendations from the Kentucky Arts  
8 Council. For the initial appointments, the Governor shall appoint two (2) members  
9 to serve two (2) year terms; two (2) members to serve three (3) year terms; and two  
10 (2) members to serve four (4) year terms. Thereafter, the Governor shall make all  
11 appointments for a term of four (4) years. The board shall elect by majority vote a  
12 chair and other officers deemed necessary. Board members shall not receive any  
13 compensation for their services, but may be reimbursed in accordance with the  
14 provisions of KRS 44.070 and 45.101 for actual and necessary expenses incurred in  
15 the performance of their duties.
- 16 (4) The foundation board shall perform duties and responsibilities deemed necessary to  
17 fulfill the purposes of this section. The foundation board shall establish by  
18 administrative regulation procedures for administration of the foundation, eligibility  
19 criteria for the award of grants, appropriate matching contributions from grant  
20 recipients, and evaluation and reporting requirements.
- 21 (5) The foundation shall be attached to the office of the secretary for the Education,  
22 Arts, and Humanities Cabinet for administrative purposes only. The Kentucky Arts  
23 Council shall provide to the foundation by agreement staff support and office  
24 facilities for which reasonable charges and fees may be levied against the  
25 foundation fund.
- 26 (6) The foundation board shall submit an annual report to the Governor and the  
27 Legislative Research Commission listing the sources of funds acquired and

1       expended.

2       Section 569. KRS 154.12-2086 is amended to read as follows:

- 3       (1) The Bluegrass State Skills Corporation may, in accordance with KRS 154.12-2084  
4       to 154.12-2089, award a credit against the Kentucky income tax imposed by KRS  
5       141.020 or 141.040 to an approved company. The amount of the skills training  
6       investment credit awarded by the Bluegrass State Skills Corporation shall be an  
7       amount equal to fifty percent (50%) of the amount of approved costs incurred by the  
8       approved company in connection with its program of occupational upgrade training  
9       or skills upgrade training, the credit amount not to exceed five hundred dollars  
10       (\$500) per employee and, in the aggregate, not to exceed one hundred thousand  
11       dollars (\$100,000) for each approved company per biennium. The Bluegrass State  
12       Skills Corporation shall only approve one (1) application per biennium for each  
13       qualified company.
- 14       (2) The skills training investment credit shall be credited on the income tax return of  
15       the approved company filed for the fiscal year during which the final authorizing  
16       resolution is adopted by the Bluegrass State Skills Corporation in accordance with  
17       KRS 154.12-2088(6). The skill training investment credits allowed under KRS  
18       154.12-2084 to 154.12-2089 shall only be used by the approved company that has  
19       been awarded the credits in accordance with KRS 154.12-2084 to 154.12-2089. The  
20       skills training investment credits provided for in this section shall be in addition to  
21       all other tax credits granted under the laws of the Commonwealth.
- 22       (3) The skills training investment credits may be carried forward for three (3)  
23       successive fiscal years of the approved company if the amount allowable as credits  
24       exceeds the income tax liability of the approved company in the tax year during  
25       which the final authorizing resolution is adopted by the Bluegrass State Skills  
26       Corporation; however, thereafter, if the amount allowable as credits exceeds the  
27       income tax liability of the approved company, the excess credits shall not be

1 refundable or carried forward to any other fiscal year of the approved company for  
2 which a tax return of the approved company is to be filed.

3 (4) A qualified company shall not be entitled to receive the skills training investment  
4 credits if the qualified company requires that the employee reimburse the employer  
5 or otherwise pay for any costs or expenses incurred in connection with the  
6 occupational upgrade training or skills upgrade training.

7 (5) To the extent that any expenditures of a qualified company constitute approved  
8 costs and are the basis for the skills training investment credits under KRS 154.12-  
9 2084 to 154.12-2089, these expenditures shall not be eligible as the basis for grants-  
10 in-aid under Bluegrass State Skills Corporation provisions in KRS 154.12-204 to  
11 154.12-208 or the Local Government Economic Development Program under the  
12 provisions of KRS 42.4588 to 42.4595.

13 (6) Priority consideration for preliminary approval under KRS 154.12-2088 shall be  
14 given to qualified companies that the Bluegrass State Skills Corporation determines  
15 to be high performance companies. A minimum of thirty percent (30%) of the total  
16 skills training investment credits authorized by the Bluegrass State Skills  
17 Corporation during any fiscal year shall be awarded to qualified companies that  
18 have been designated as high performance companies by the Bluegrass State Skills  
19 Corporation. The Bluegrass State Skills Corporation shall establish guidelines and  
20 standards for the designation of high performance companies.

21 (7) By October 1 of each year, the Department of Revenue~~[Cabinet]~~ shall certify to the  
22 Bluegrass State Skills Corporation the amount of any skills training investment  
23 credits taken pursuant to KRS 154.12-2084 to 154.12-2089 on tax returns filed  
24 during the fiscal year ending June 30 of that year.

25 Section 570. KRS 154.20-256 is amended to read as follows:

26 (1) The approval of investment funds and investment fund managers shall be made  
27 pursuant to an application to the authority submitted by a proposed fund manager on



1       behalf of a proposed investment fund and shall include:

2       (a)   The name, address, and Social Security number or employer identification  
3           number, as applicable, of the investment fund manager and the investment  
4           fund;

5       (b)   The applicant's business plan, including the minimum and maximum amount  
6           of cash contributions to be solicited for the investment fund, and strategy for  
7           operation of the proposed investment fund;

8       (c)   The amount of credits the investment fund seeks for making qualified  
9           investments;

10      (d)   The applicant fund manager's relevant experience and demonstrated ability to  
11          manage the proposed investment fund;

12      (e)   The location and account number of a bank account that has been established  
13          for use by the investment fund;

14      (f)   The exemption or registration provision that is being relied upon or intended  
15          to be relied upon by both the investment fund and the investment fund  
16          manager to permit this offering of securities and the activity of the investment  
17          fund manager in relation to the offering, in compliance with applicable state  
18          and federal securities laws and regulations;

19      (g)   A representation that the investment fund and the investment fund manager  
20          are and shall remain in compliance with applicable state and federal securities  
21          regulations; and

22      (h)   Any additional information the authority deems necessary.

23    (2)   The applicant shall include copies of the following documents as attachments to the  
24          application:

25      (a)   The disclosure documents used in connection with the offering and  
26          investment in the investment fund;

27      (b)   The disclosure documents provided to each investor which state that:

- 1           1.    The investor has certain rights, responsibilities, and liabilities pursuant  
2                   to KRS 154.20-250 to 154.20-284;
- 3           2.    The Commonwealth shall be immune from liability for any losses or  
4                   damages investors, investment funds, or investment fund managers may  
5                   incur pursuant to KRS 154.20-279;
- 6           3.    No tax credit shall be available under the provision of KRS 154.20-250  
7                   to 154.20-284 until the investment fund and the investment fund  
8                   manager have complied with applicable state and federal securities laws  
9                   and regulations and have been approved by the authority, and an  
10                  agreement has been executed, and the terms of that agreement have been  
11                  disclosed in writing to each investor; and
- 12          4.    Investors shall lose all rights to any unused credits allocated to an  
13                  investment fund that does not make a qualified investment within one  
14                  (1) year of the date of the agreement with the authority or within any one  
15                  (1) year period thereafter through the end of the term of the agreement.

16           An applicant soliciting cash contributions for the initial capitalization of an  
17           investment fund, or an investment fund manager soliciting additional cash  
18           contributions for an approved investment fund, shall disclose in advance and in  
19           writing to each potential investor those items described in this subsection in  
20           addition to any other items required by law or by agreement.

- 21   (3)   The authority shall have, in addition to its other powers provided in this chapter and  
22           as otherwise provided by law, all powers and authority, not explicitly prohibited by  
23           statute, that are necessary or convenient to carry out and effectuate the purposes,  
24           objectives, and provisions of KRS 154.20-250 to 154.20-284, including but not  
25           limited to power to:
  - 26           (a)   Require consultation, advisory, and legal fees and other expenses the authority  
27                  deems necessary or incident to the preparation, adoption, implementation,

1           modification, or enforcement of the terms of any agreement or other  
2           document, or otherwise necessary or incident to any transaction;

3           (b) Require the investment fund manager to pay these fees and expenses directly  
4           to the person providing such consultation, advisory, legal, or other services on  
5           behalf of the authority; and

6           (c) Impose and collect fees and charges in connection with any transaction and  
7           provide for reasonable penalties for delinquent payment of fees or charges.

8           Any payments made by an investment fund manager pursuant to this subsection  
9           may be passed on to the investment fund manager's investment fund.

10          (4) An investment fund's stated purpose shall be primarily to encourage and assist in  
11          the creation, development, or expansion of small businesses located in Kentucky.

12          (5) The criteria considered by the authority for the approval of investment fund  
13          managers and the maximum amount of credits allocated to the investors of an  
14          investment fund shall include but not be limited to:

15           (a) Compliance by those persons with applicable state and federal securities laws  
16           and regulations;

17           (b) A review of the application;

18           (c) The investment strategy for the investment fund;

19           (d) The relevant experience of the applicant fund manager or, if the applicant fund  
20           manager is an entity, the applicant's management;

21           (e) The applicant's demonstrated ability to manage the investment fund; and

22           (f) The amount of credits requested by the investment fund and the total amount  
23           of credits which may be granted to investors under KRS 154.20-258.

24          (6) Following the making of a qualified investment, the investment fund manager shall  
25          within sixty (60) days file a disclosure form with the authority detailing the  
26          following information:

27           (a) The name and address of the small business in which the qualified investment

1           was made;

2           (b) The amount of the qualified investment; and

3           (c) The name, address, and Social Security number or employer identification  
4           number, as may be applicable, of each investor and the amount of credit  
5           allocated to each investor by virtue of the investor's proportional ownership  
6           interest in the qualified investment.

7   (7) An investment fund manager and its affiliates may operate no more than three (3)  
8       separate investment funds pursuant to separate applications submitted to and  
9       approved by the authority, provided the investment fund manager is in compliance  
10      with any applicable state and federal securities laws and regulations as evidenced by  
11      a written statement to the authority by an investment fund manager to that effect.

12   (8) An investment fund manager seeking to expand a previously approved investment  
13      fund shall submit to the authority an amended application in a form acceptable to  
14      the authority.

15   (9) An investment fund shall lose all unused credits that are available to its investors if  
16      the investment fund does not make a qualified investment within one (1) year of the  
17      date of the agreement or within any one (1) year period thereafter through the end of  
18      the term of the agreement.

19   (10) The contents of the information form required under subsections (1), (2), and (6) of  
20       this section shall be treated by the authority and by the Department of Revenue{  
21       ~~Cabinet~~} as confidential and shall not be considered public records under KRS  
22       61.870 to 61.884.

23   (11) The authority, in consultation with the Department of Revenue{~~Cabinet~~}, may  
24       establish additional procedures and standards, as it deems necessary for the  
25       approval of investment funds and investment fund managers, and for the allocation  
26       and granting of investment tax credits by the promulgation of administrative  
27       regulations in accordance with the provisions of KRS Chapter 13A.

1       Section 571. KRS 154.20-258 is amended to read as follows:

- 2       (1) An investor shall be entitled to a nonrefundable credit equal to forty percent (40%)  
3       of the investor's proportional ownership share of all qualified investments made by  
4       its investment fund and verified by the authority. The aggregate tax credit available  
5       to any investor shall not exceed forty percent (40%) of the cash contribution made  
6       by the investor to its investment fund. The credit may be applied against the income  
7       tax imposed by KRS 141.020 or 141.040, the corporation license tax imposed by  
8       KRS 136.070, the insurance taxes imposed by KRS 136.320, 136.330, and 304.3-  
9       270, and the taxes on financial institutions imposed by KRS 136.300, 136.310, and  
10      136.505.
- 11      (2) The tax credit amount that may be claimed by an investor in any tax year shall not  
12      exceed fifty percent (50%) of the initial aggregate credit amount approved by the  
13      authority for the investment fund which would be proportionally available to the  
14      investor. An investor may first claim the credit granted in subsection (1) of this  
15      section in the year following the year in which the credit is granted.
- 16      (3) If the credit amount that may be claimed in any tax year, as determined under  
17      subsections (1) and (2) of this section, exceeds the investor's combined tax  
18      liabilities against which the credit may be claimed for that year, the investor may  
19      carry the excess tax credit forward until the tax credit is used, but the carry-forward  
20      of any excess tax credit shall not increase the fifty percent (50%) limitation  
21      established by subsection (2) of this section. Any tax credits not used within fifteen  
22      (15) years of the approval by the authority of the aggregate tax credit amount  
23      available to the investor shall be lost.
- 24      (4) The tax credits allowed by this section shall not apply to any liability an investor  
25      may have for interest, penalties, past due taxes, or any other additions to the  
26      investor's tax liability. The holder of the tax credit shall assume any and all  
27      liabilities and responsibilities of the credit.

- 1 (5) The tax credits allowed by this section are not transferable, except that:
- 2 (a) A nonprofit entity may transfer, for some or no consideration, any or all of the
- 3 credits it receives under this section and any related benefits, rights,
- 4 responsibilities, and liabilities. Within thirty (30) days of the date of any
- 5 transfer of credits pursuant to this subsection, the nonprofit entity shall notify
- 6 the authority and the Department of Revenue~~Cabinet~~ of:
- 7 1. The name, address, and Social Security number or employer
- 8 identification number, as may be applicable, of the party to which the
- 9 nonprofit entity transferred its credits;
- 10 2. The amount of credits transferred; and
- 11 3. Any additional information the authority or the Department of Revenue~~Cabinet~~
- 12 deems necessary.
- 13 (b) If an investor is an entity and is a party to a merger, acquisition, consolidation,
- 14 dissolution, liquidation, or similar corporate reorganization, the tax credits
- 15 shall pass through to the investor's successor.
- 16 (c) If an individual investor dies, the tax credits shall pass to the investor's estate
- 17 or beneficiaries in a manner consistent with the transfer of ownership of the
- 18 investor's interest in the investment fund.
- 19 (6) The tax credit amount that may be claimed by an investor shall reflect only the
- 20 investor's participation in qualified investments properly reported to the authority by
- 21 the investment fund manager. No tax credit authorized by this section shall become
- 22 effective until the Department of Revenue~~Cabinet~~ receives notification from the
- 23 authority that includes:
- 24 (a) A statement that a qualified investment has been made that is in compliance
- 25 with KRS 154.20-250 to 154.20-284 and all applicable regulations; and
- 26 (b) A list of each investor in the investment fund that owns a portion of the small
- 27 business in which a qualified investment has been made by virtue of an

1 investment in the investment fund, and each investor's amount of credit  
2 granted to the investor for each qualified investment.

3 The authority shall, within sixty (60) days of approval of credits, notify the  
4 Department of Revenue~~[Cabinet]~~ of the information required pursuant to this  
5 subsection and notify each investor of the amount of credits granted to that investor,  
6 and the year the credits may first be claimed.

7 (7) After the date on which investors in an investment fund have cumulatively received  
8 an amount of credits equal to the amount of credits allocated to the investment fund  
9 by the authority, no investor shall receive additional credits by virtue of its  
10 investment in that investment fund unless the investment fund's allocation of credits  
11 is increased by the authority pursuant to an amended application.

12 (8) The maximum amount of credits to be authorized by the authority shall be three  
13 million dollars (\$3,000,000) for each of fiscal years 2002-03 and 2003-04.

14 Section 572. KRS 154.20-260 is amended to read as follows:

15 (1) To receive the credit provided by KRS 154.20-258, an investor shall claim the  
16 credit on the investor's annual state tax returns in the manner prescribed by the  
17 Department of Revenue~~[Cabinet]~~.

18 (2) The contents of an investor's filings under subsection (1) of this section shall be  
19 treated by the authority and by the Department of Revenue~~[Cabinet]~~ as confidential  
20 and shall not be considered public records under the Kentucky Open Records Act,  
21 KRS 61.870 to 61.884.

22 Section 573. KRS 154.20-262 is amended to read as follows:

23 (1) An investment fund that violates the provisions of KRS 154.20-250 to 154.20-284  
24 shall pay to the State Treasurer a penalty in an amount equal to the amount of all  
25 credits claimed by the investors when these credits are determined to be derived  
26 from unqualified investments, plus interest at the rate of two percent (2%) per  
27 month, compounded monthly, from the date the credits were taken. If the

investment fund fails to pay the penalty and interest in full as required by the Department of Revenue~~[Cabinet]~~, each investor shall be personally liable to the Department of Revenue~~[Cabinet]~~ for that investor's share of the unpaid penalty, which shall be determined by the amount of credits received and utilized by the investor and all applicable interest. Any payment of unpaid penalty by an investor shall be included with the investor's state tax return for the period in which the failure or violation occurred. The commissioner of the Department of Revenue~~[secretary of the Revenue Cabinet]~~ shall give notice in writing to the authority, the investment fund manager, and the investors of any penalties imposed. The commissioner of the Department of Revenue~~[secretary of the Revenue Cabinet]~~ may abate any imposed penalty upon written request, if the investment fund manager establishes reasonable cause for the failure to make qualified investments in small businesses under the provisions of KRS 154.20-250 to 154.20-284, or to otherwise comply with the provisions of KRS 154.20-250 to 154.20-284. The State Treasurer shall deposit any amounts received pursuant to this section in the Commonwealth's general fund.

- (2) The administration of this section shall be the responsibility of the Department of Revenue~~[Cabinet]~~.

Section 574. KRS 154.20-264 is amended to read as follows:

- (1) Each investment fund manager shall file an annual report with the commissioner of the Department of Revenue~~[secretary of the Revenue Cabinet]~~ and with the authority, on or before February 15 of each year during which it manages an investment fund. This report shall include information that the authority prescribes from time to time, including but not limited to the following:
- (a) For each small business in which qualified investments are made by the investment fund during the reporting period, the name and address of the small business, the amount of qualified investments made by the investment



1 fund, the job creation anticipated and achieved by the small business, and new  
2 products and technologies being developed by the small business;

3 (b) An affidavit prepared by the investment fund manager or, if the investment  
4 fund is an entity, by an authorized officer, partner, trustee, member, or  
5 manager of the investment fund management firm that states:

6 1. At the time of each qualified investment, each small business qualifies  
7 as a small business under the provisions of KRS 154.20-250 to 154.20-  
8 284;

9 2. The name and address of each investor, and the amount of cash  
10 contribution to the investment fund of each investor who is entitled to  
11 the credits; and

12 3. The continued compliance by the investment fund and the investment  
13 fund manager with all applicable state and federal securities laws and  
14 regulations.

15 (2) The authority shall provide an annual written status report to the standing  
16 Appropriations and Revenue Committee of each house or to the Interim Joint  
17 Committee on Appropriations and Revenue, as appropriate, concerning the  
18 activities of the Kentucky investment fund for each fiscal year beginning with the  
19 fiscal year ended July 30, 2003. On or before November 1 of each year, the  
20 authority shall make an annual report for the preceding fiscal year to the Governor,  
21 the Legislative Research Commission, and the Kentucky Innovation Commission.  
22 The annual report shall include but not be limited to the following information:

23 (a) The total number of investors and the aggregate amount of committed cash  
24 contributions to all investment funds, categorized by the types of business  
25 entities through which investors conduct business and the geographical  
26 distribution of investors, including the area development districts;

27 (b) The total number and amounts of qualified investments made by each

investment fund to qualified small businesses, categorized by type of businesses, amount of investment, job creation anticipated and achieved, geographical distribution, including area development districts, and new products and technologies developed; and

(c) The total amount of credits granted to investors.

(3) The contents of the annual reports from investment fund managers to the authority described in subsection (1) of this section shall be treated by the authority as confidential, and shall not be considered a public record under the Kentucky Open Records Act, KRS 61.870 to 61.884.

(4) The authority may charge a fee in connection with the administration and processing of an annual report made by an investment fund manager.

Section 575. KRS 154.20-277 is amended to read as follows:

(1) Each investment fund manager shall cause the books and records of the investment fund to be audited on an annual basis by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied. The audit shall address the financial condition of the investment fund and compliance with the provisions of KRS 141.068 and KRS 154.20-250 to 154.20-284. Each year the audit report shall be completed and certified by the independent certified public accountant and delivered to the authority within ninety (90) days after the end of the investment fund's fiscal year.

(2) The authority and the Department of Revenue~~[-Cabinet]~~, individually or collectively, may examine, under oath, any of the officers, trustees, partners, members, managers, directors, agents, employees, or investors of an investment fund regarding the affairs and business of the investment fund. The authority and the Department of Revenue~~[-Cabinet]~~, individually or collectively, may issue subpoenas and subpoenas duces tecum and administer oaths. Refusal to obey such a subpoena or subpoena duces tecum may be reported to the Franklin Circuit Court,

1 which shall enforce the subpoena or subpoena duces tecum according to the rules of  
2 civil or criminal procedure, as applicable.

3 (3) In addition to the audits required by this section, the authority or the Department of  
4 Revenue~~[-Cabinet]~~ may audit one (1) or more investment funds or investment fund  
5 managers in any year on a random basis or for cause. The authority or the  
6 Department of Revenue~~[-Cabinet]~~ may also audit, for cause, any small business in  
7 which an investment fund has made a qualified investment. Nothing in this section  
8 shall be construed to prohibit the Department of Revenue~~[-Cabinet]~~ from  
9 conducting any audit relating to the administration or enforcement of the tax laws of  
10 the Commonwealth which the Department of Revenue~~[-Cabinet]~~ determines to be  
11 appropriate.

12 (4) If any audit conducted pursuant to this section discloses that an investment fund or  
13 investment fund manager is not in compliance with the provisions of KRS 141.068  
14 and KRS 154.20-250 to 154.20-284, the authority and the Department of Revenue~~[-~~  
15 ~~Cabinet]~~ may consult with one another with respect to this noncompliance and the  
16 Department of Revenue~~[-Cabinet]~~ may exercise any of its powers to protect the  
17 Commonwealth's interest and to enforce the provisions of KRS 141.068 and KRS  
18 154.20-250 to 154.20-284.

19 (5) The authority may give an investment fund manager written notice of any  
20 noncompliance with the provisions of KRS 154.20-250 to 154.20-284 and specify a  
21 period of time the investment fund manager shall have to cure any noncompliance.  
22 Failure to cure any such noncompliance within the period of time specified by the  
23 authority may result in further action by the authority pursuant to this section.

24 (6) Nothing in this section shall be construed to prohibit the Department of Financial  
25 Institutions, Division of Securities, or any other securities regulatory organization or  
26 body with jurisdiction over the activity of an investment fund or the investment  
27 fund manager from conducting any examination or investigation relating to the

1 securities activities of the investment fund or investment fund manager. If any  
 2 examination or investigation conducted pursuant to any securities laws or  
 3 regulations discloses that an investment fund or investment fund manager is not in  
 4 compliance with any provision of any applicable securities laws or regulations, the  
 5 appropriate securities regulator may take whatever action it deems appropriate in  
 6 accordance with such securities laws and regulations to respond to the  
 7 noncompliance, notwithstanding any action the authority or the Department of  
 8 Revenue~~Cabinet~~ may or may not take with respect to the noncompliance.

9 Section 576. KRS 154.22-050 is amended to read as follows:

10 The authority may enter into, with any approved company, a tax incentive agreement with  
 11 respect to its economic development project, upon adoption of a resolution authorizing  
 12 the tax incentive agreement. Subject to the inclusion of the mandatory provisions set forth  
 13 below, the terms and provisions of each tax incentive agreement shall be determined by  
 14 negotiations between the authority and the approved company.

15 (1) The tax incentive agreement shall set forth the maximum amount of inducements  
 16 available to the approved company for recovery of the approved costs authorized by  
 17 the authority and expended by the approved company.

18 (2) The approved company shall expend the authorized approved costs for the  
 19 economic development project within three (3) years of the date of the final  
 20 approval by the authority.

21 (3) The approved company shall provide the authority with documentation as to the  
 22 expenditures for approved costs in a manner acceptable to the authority.

23 (4) The term of the tax incentive agreement shall commence upon the activation date  
 24 and will terminate upon the earlier of the full receipt of the maximum amount of  
 25 inducements by the approved company or fifteen (15) years after the activation date.

26 (5) The tax incentive agreement shall include the activation date. To implement the  
 27 activation date, the approved company shall notify the authority, the Department of

1 Revenue~~[Cabinet]~~, and the approved company's employees of the activation date  
2 when the implementation of the inducements authorized in the tax incentive  
3 agreement shall occur. If the approved company does not satisfy the minimum  
4 investment and minimum employment requirements of KRS 154.22-040(3) by the  
5 activation date, the approved company shall not be entitled to receive inducements  
6 pursuant to this subchapter until the approved company satisfies the requirements;  
7 however, the fifteen (15) year period for the term of the tax incentive agreement  
8 shall begin from the activation date. Notwithstanding the previous sentence, if the  
9 approved company does not satisfy the minimum investment and minimum  
10 employment requirements of KRS 154.22-040(3) within two (2) years from the date  
11 of final approval of the tax incentive agreement, then the approved company shall  
12 be ineligible to receive inducements under this subchapter unless an extension is  
13 approved by the authority.

14 (6) The tax agreement shall also state that if the total number of new full-time  
15 employees at the site of the economic development project who are residents of the  
16 Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at  
17 any time after activation, the authorized inducements shall be suspended for a  
18 period of up to one (1) year. If the company does not have at least fifteen (15) new  
19 full-time employees at the site who are residents of the Commonwealth and subject  
20 to Kentucky income tax within one (1) year from the date of the initial suspension,  
21 the inducements may be terminated at the discretion of the authority.

22 (7) The approved company shall comply with the hourly wage criteria set forth in KRS  
23 154.22-040(4) and provide documentation in connection with hourly wages paid to  
24 its full-time employees hired as a result of the economic development project in a  
25 manner acceptable to the authority.

26 (8) The approved company may be permitted the following inducements during the  
27 term of the tax incentive agreement:

- 1       (a) A one-hundred percent (100%) credit against the Kentucky income tax that  
 2       would otherwise be owed in the approved company's fiscal year, as  
 3       determined under KRS 141.347, to the Commonwealth by the approved  
 4       company on the income of the approved company generated by or arising  
 5       from the economic development project; and
- 6       (b) The aggregate assessments withheld by the approved company in each year.
- 7       (9) The income tax credited to the approved company shall be credited for the fiscal  
 8       year for which the tax return of the approved company is filed. The total  
 9       inducements may not exceed authorized cumulative approved costs paid by the  
 10      approved company in the period commencing with the date of final approval.
- 11      (10) The approved company shall not be required to pay estimated income tax payments  
 12      as prescribed in KRS 141.042 on the Kentucky taxable income generated by or  
 13      arising from the economic development project.
- 14      (11) The tax incentive agreement may be assigned by the approved company only upon  
 15      the prior written consent of the authority following the adoption of a resolution by  
 16      the authority to that effect.
- 17      (12) The tax incentive agreement shall provide that if an approved company fails to  
 18      comply with its obligations under the tax incentive agreement then the authority  
 19      shall have the right, at its option, to:
- 20      (a) Suspend the income tax credits and assessments available to the approved  
 21      company;
- 22      (b) Pursue any remedy provided under the tax incentive agreement, including  
 23      termination thereof; and
- 24      (c) Pursue any other remedy at law to which it may be entitled.
- 25      (13) All remedies provided in subsection (12) of this section shall be deemed to be  
 26      cumulative.
- 27      Section 577. KRS 154.22-060 is amended to read as follows:

1 (1) The approved company shall be entitled to a credit against the Kentucky income tax  
 2 liability mandated by KRS Chapter 141, on any income that may result from the  
 3 operation of the approved economic development project; the credit shall be equal  
 4 to the total amount of the tax liability, and together with the aggregate assessments  
 5 not to exceed the maximum amount of inducements as set forth in the tax incentive  
 6 agreement.

7 (2) By October 1 of each year, the Department of Revenue~~—Cabinet~~ of the  
 8 Commonwealth shall certify to the authority in the form of an annual report,  
 9 aggregate income tax credits claimed on tax returns filed during the fiscal year  
 10 ending June 30 of that year, and assessments taken by approved companies with  
 11 respect to their economic development projects during the prior calendar year under  
 12 this subchapter, and shall certify to the authority, within ninety (90) days from the  
 13 date an approved company has filed its state income tax return, when an approved  
 14 company has taken income tax credits equal to its total inducements.

15 Section 578. KRS 154.23-040 is amended to read as follows:

16 (1) Before any approved company engaged in service or technology activity is granted  
 17 inducements under KRS 154.23-005 to 154.23-079, a service and technology  
 18 agreement with respect to the approved company's economic development project  
 19 shall be entered into between the authority and the approved company. The terms  
 20 and provisions of the service and technology agreement, including the amount of  
 21 approved costs, shall be determined by negotiations between the authority and the  
 22 approved company, subject to inclusion of the following mandatory provisions:

23 (a) The term of the service and technology agreement shall commence upon the  
 24 activation date and shall terminate upon the earlier of the full receipt of the  
 25 maximum amount of inducements by the approved company or ten (10) years  
 26 after the activation date.

27 (b) The service and technology agreement shall include the activation date, which

shall be a date selected by the approved company within two (2) years of the date of final approval by the authority of the service and technology agreement. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the service and technology agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 within two (2) years from the date of final approval of the service and technology agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(c) In order to implement the activation date, the approved company shall notify the authority, the Kentucky Department of Revenue~~[- Cabinet]~~, the qualified statewide employees, and the affected local jurisdictions, if any, of the activation date on which implementation of the inducements authorized in the service and technology agreement shall occur;

(d) The approved company may be permitted the following inducements during the term of the service and technology agreement:

1. An income tax credit of up to one hundred percent (100%) of the Kentucky income tax liability imposed by KRS 141.020 or 141.040 that would otherwise be due, determined under KRS 141.401, on the income of the approved company generated by or arising out of the economic development project, as limited by the provisions of this section and KRS 154.23-045; and



- 1           2.    The assessment, if applicable, withheld by the approved company in  
2                   each year;
- 3           (e)   The inducements allowed to the approved company shall be subtracted from  
4                   the approved cost balance in the fiscal year of the approved company for  
5                   which the tax return of the approved company is filed;
- 6           (f)   If the total number of full-time qualified employees at the site of the economic  
7                   development project is less than ten (10) or, in the case of an existing  
8                   business, the approved company fails to maintain the increase of at least ten  
9                   (10) full-time qualified employees, the authorized inducements shall be  
10                  suspended for a period of up to one (1) year. If the company does not have at  
11                  least ten (10) new full-time qualified employees at the site within one (1) year  
12                  from the date of the initial suspension, the inducements may be terminated at  
13                  the discretion of the authority;
- 14          (g)   The service and technology agreement may be assigned by the approved  
15                  company only upon the prior written consent of the authority; and
- 16          (h)   The approved company shall pay all costs of counsel to the authority resulting  
17                  from approval of its economic development project.
- 18    (2)   Before the end of the first year following the activation date, the authority shall,  
19           using data supplied by the approved company, verify and determine the total start-  
20           up costs for the approved company's economic development project. The initial  
21           approved costs shall be up to a maximum of fifty percent (50%) of the start-up  
22           costs.
- 23    (3)   Each year, during the ten (10) year term of the service and technology agreement,  
24           up to fifty percent (50%) of the annualized rent shall be added to the unrecouped  
25           balance of approved costs, and the inducements earned shall be subtracted from the  
26           approved costs.
- 27    (4)   If, in any fiscal year of the approved company during which the service and

1        technology agreement is in effect, the accumulated inducements equal the  
2        unrecouped remaining balance of the approved costs then expended, the  
3        assessments collected from the wages of the employees shall cease for the  
4        remainder of that fiscal year of the approved company, and the approved company  
5        shall resume normal personal income tax and occupational license fee withholdings  
6        from the qualified statewide employees' wages for the remainder of that fiscal year.

7        (5) If, in any fiscal year of the approved company during which the service and  
8        technology agreement is in effect, the total of the income tax credit granted to the  
9        approved company plus the assessment collected from the wages of the qualified  
10       statewide employees exceeds the remaining balance of the approved costs then  
11       expended, the approved company shall pay the excess to the Commonwealth as  
12       income tax.

13       (6) If, in any fiscal year of the approved company during which the service and  
14       technology agreement is in effect, the assessment collected from the wages of the  
15       qualified statewide employees exceeds the unrecouped remaining balance of the  
16       approved costs then expended, the assessment collected from the wages of the  
17       qualified statewide employees shall cease for the remainder of that fiscal year of the  
18       approved company, the approved company shall resume normal personal income  
19       tax and occupational license fee withholdings from the qualified statewide  
20       employees for the remainder of that fiscal year, and the approved company shall  
21       remit to the Commonwealth and applicable local jurisdictions their respective  
22       shares of the excess assessment collected on the withholding filing date for  
23       qualified statewide employees' wages next succeeding the first date when the  
24       approved company collected excess assessments.

25       Section 579. KRS 154.23-050 is amended to read as follows:

26       (1) An approved company engaged in manufacturing or in service or technology  
27       activities shall be entitled to an income tax credit equal to one hundred percent

(100%) of the income tax liability that would otherwise be due to the Commonwealth from the approved company attributable to its economic development project, as limited by the provisions of KRS 154.23-045.

- (2) The Department of Revenue~~[-Cabinet]~~ of the Commonwealth shall initiate contact and fully cooperate with the authority in the collection of information to determine the fiscal impact of qualified zone inducements on state revenues. The Department of Revenue~~[-Cabinet]~~ shall certify to the authority, in the form of an annual report, aggregate income tax credits and assessments taken by approved companies with respect to their economic development projects under KRS 154.23-005 to 154.23-079, and certify to the authority when an approved company has taken income tax credits and assessments equal to its total inducements. The Department of Revenue~~[-Cabinet]~~ shall certify to the authority, upon written request of the authority, the aggregate income tax credits and assessments taken by an approved company with respect to its economic development project under KRS 154.23-005 to 154.23-079.

Section 580. KRS 154.24-110 is amended to read as follows:

- (1) The approved company shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax that would otherwise be due to the Commonwealth by the approved company attributable to the economic development project, as limited by the provisions of this section and KRS 154.24-130. The amount of the approved company's income that is attributable to the economic development project shall be determined under KRS 141.407.
- (a) The income tax credit allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed; and
- (b) By October 1 of each year, the Department of Revenue~~[-Cabinet]~~ of the Commonwealth shall certify to the authority, in the form of an annual report,

1 aggregate income tax credits claimed on tax returns filed during the fiscal year  
2 ending June 30 of that year, and assessments taken by approved companies  
3 with respect to their economic development projects during the prior calendar  
4 year under this subchapter, and shall certify to the authority, within ninety (90)  
5 days from the date an approved company has filed its state income tax return,  
6 when an approved company has taken income tax credits and assessments  
7 equal to its total inducements.

8 (2) The approved company or, with the authority's consent, an affiliate of the approved  
9 company may require each employee, subject to state tax imposed by KRS 141.020,  
10 as a condition of employment, to agree to pay a service and technology job creation  
11 assessment fee up to five percent (5%) of the gross wages exclusive of any noncash  
12 benefits provided to an employee for each employee whose job has been deemed by  
13 the authority to be created as a result of the economic development project,  
14 provided that the service and technology job creation assessment fee shall not  
15 exceed the amount determined in accordance with KRS 154.24-150(5) if the  
16 circumstances in that subsection apply. Where a person is already employed by the  
17 approved company at a site other than the site of the economic development project  
18 and where that employee is subject to state tax imposed by KRS 141.020, the  
19 employee's job shall be deemed to have been created when the employee is  
20 transferred to the site of the economic development project, provided that the  
21 employee's existing job is filled with a new employee.

22 (a) Each employee paying the assessment shall be entitled to a credit against his  
23 Kentucky income tax required to be withheld under KRS 141.310 equal to  
24 four-fifths (4/5) of the assessment;

25 (b) If the assessment has been approved by the local jurisdiction as provided in  
26 KRS 154.24-150, each employee paying the assessment also shall be entitled,  
27 in the local jurisdiction in which the economic development project is located,

1 to a credit against his local occupational license fee in the form of a  
 2 simultaneous adjustment of his local occupational license fee withholding  
 3 equal to one-fifth (1/5) of the assessment. If more than one (1) local tax is  
 4 incurred, the one-fifth (1/5) assessment shall be prorated proportionately  
 5 among the taxes unless one (1) local jurisdiction agrees to forgo the receipt of  
 6 these taxes in an amount equal to the one-fifth (1/5) assessment, in which case  
 7 no proration need be made;

8 (c) If an approved company elects to impose the assessment as a condition of  
 9 employment, it shall be authorized to deduct the assessment from each  
 10 payment of wages to the employee;

11 (d) No credit, or portion thereof, shall be allowed against any occupational license  
 12 fee imposed by or dedicated solely to the board of education in a local  
 13 jurisdiction;

14 (e) The approved company collecting an assessment shall make its payroll, books,  
 15 and records available to the authority when the authority shall request, and  
 16 shall file with the authority documentation pertaining to the assessment as the  
 17 authority may require; and

18 (f) Any assessment of the wages of employees of an approved company in  
 19 connection with their employment at an economic development project shall  
 20 permanently cease at the expiration of the agreement.

21 (3) Notwithstanding subsection (2) of this section, if a local government in which the  
 22 project is located has a local occupational license fee that is less than one percent  
 23 (1%) and agrees to forgo all of its local occupational license fee, then the  
 24 assessment shall be four percent (4%), all of which shall be contributed by the  
 25 Commonwealth, plus the percentage of the local occupational license fee that the  
 26 local government has agreed to forgo. Each employee paying the assessment under  
 27 this subsection shall be entitled to a credit against Kentucky income tax, under KRS

1 141.350, equal to four percent (4%) and a credit against the local occupational  
 2 license fee equal to the local occupational license fee that the local jurisdiction has  
 3 agreed to forgo.

4 Section 581. KRS 154.24-120 is amended to read as follows:

5 Before any approved company is granted inducements as prescribed in KRS 154.24-010  
 6 to 154.24-150, a service and technology agreement with respect to the company's  
 7 economic development project shall be entered into between the authority and the  
 8 approved company. The terms and provisions of the agreement, including the amount of  
 9 approved costs, shall be determined by negotiations between the authority and the  
 10 approved company, except that each agreement shall include the following provisions:

11 (1) The term of an agreement shall not be longer than ten (10) years from the activation  
 12 date established by the approved company. The activation date shall be any time  
 13 within two (2) years after the date of final approval of the agreement by the  
 14 authority. In order to implement the activation date, the approved company shall  
 15 notify the authority, the Kentucky Department of Revenue~~[-Cabinet]~~, the  
 16 employees, and the affected local jurisdictions, if any, of the activation date on  
 17 which implementation of the inducements authorized in the agreement shall occur.

18 (2) The agreement shall include:

19 (a) A description of the authorized inducements to be used by the approved  
 20 company;

21 (b) A provision that, if the total number of full-time employees at the site of the  
 22 economic development project who are residents of the Commonwealth and  
 23 subject to the Kentucky income tax is less than fifteen (15), or in the case of  
 24 an existing Kentucky business the approved company fails to maintain the  
 25 increase of at least fifteen (15) full-time employees who are residents of the  
 26 Commonwealth and subject to the Kentucky income tax, the authorized  
 27 inducements shall be suspended for a period of up to one (1) year. If the

1 company does not have at least fifteen (15) new full-time employees at the site  
 2 who are residents of the Commonwealth and subject to Kentucky income tax  
 3 within one (1) year from the date of the initial suspension, the inducements  
 4 may be terminated at the discretion of the authority;

5 (c) A provision that, if seventy-five percent (75%) or less of services provided by  
 6 the approved company from the economic development project should be  
 7 provided to persons located outside of the Commonwealth during any fiscal  
 8 year of the approved company as prescribed in KRS 154.24-090, the  
 9 authorized inducements shall be suspended for a period of up to one (1) year.  
 10 If the percentage of these services does not exceed seventy-five percent (75%)  
 11 within one (1) year from the initial date of suspension, the inducements may  
 12 be terminated at the discretion of the authority; and

13 (d) A provision that neither income tax credits nor assessments are assignable  
 14 without written consent by the authority.

15 Section 582. KRS 154.26-090 is amended to read as follows:

16 (1) The authority, upon adoption of its final approval, may enter into, with any  
 17 approved company, an agreement with respect to its project. The terms and  
 18 provisions of each agreement, including the amount of approved costs, the amount  
 19 of the license tax credit pursuant to KRS 136.0704, and any limitations the authority  
 20 may deem necessary, shall be determined by negotiations between the authority and  
 21 the approved company, except that each agreement shall include the following  
 22 provisions:

23 (a) The amount the approved company may recover through inducements under  
 24 this subchapter shall not exceed seventy-five percent (75%) of approved costs.

25 (b) The agreement shall set a date by which the approved company will have  
 26 completed the project. Within three (3) months of the completion date, the  
 27 approved company shall document the actual cost of the project in a manner

1 acceptable to the authority. The authority may employ an independent  
2 consultant or utilize technical resources to verify the cost of the project. The  
3 approved company shall reimburse the authority for the cost of the consultant.

4 (c) In consideration of the execution of the agreement, the approved company  
5 may be permitted during the time not to exceed ten (10) years during which  
6 the agreement is in effect, which time shall commence on the date of the  
7 agreement for purposes of the inducements:

- 8 1. A credit against the Kentucky income tax imposed by KRS 141.020 or  
9 141.040 on the income of the approved company generated by or arising  
10 out of the economic revitalization project as determined under KRS  
11 141.403;
- 12 2. A credit against the Kentucky license tax imposed by KRS 136.070 as  
13 determined under KRS 136.0704; plus
- 14 3. The aggregate assessment withheld by the approved company in each  
15 year.

16 (d) The tax credits allowed to the approved company shall be equal to the lesser  
17 of the total amount of the tax liability or the amount that the company may  
18 recover under paragraph (a) of this subsection that has not yet been recovered,  
19 reduced by any recovery through the collection of assessments and  
20 appropriations made under any appropriation agreement. The credit shall be  
21 allowed for each fiscal year of the approved company during the term of the  
22 agreement and for which a tax return of the approved company is filed until  
23 the amount that the company may recover under paragraph (a) of this  
24 subsection has been received through a combination of credits, assessments, if  
25 assessments are elected to be imposed, and appropriations made under any  
26 appropriation agreement. The approved company shall not be required to pay  
27 estimated income tax payments as prescribed under KRS 141.044 or 141.305



on income from the economic revitalization project. Ninety (90) days after the filing of the tax return of the approved company, the Department of Revenue ~~Cabinet~~ of the Commonwealth shall certify to the authority for the preceding fiscal year of an approved company for which a return was filed with respect to an economic revitalization project of the approved company the state tax liability of the approved company receiving inducements under KRS 154.26-015 to 154.26-100 and the amount of any tax credits taken pursuant to this section.

(e) The agreement shall provide that the term shall not be longer than the earlier of:

1. The date on which the approved company has received inducements or withheld assessments equal to the amount that the company may recover under paragraph (a) of this subsection; or
2. Ten (10) years from the date of the execution of the agreement.

(f) Prior to execution of the agreement, the eligible company shall secure from all local governmental authorities responsible for collecting local occupational license fees one (1) of the following:

1. A resolution or order of the local governmental entities acknowledging and consenting to the termination or partial termination of the receipt of local occupational license fees paid by the approved company on behalf of its employees to the local government entities resulting from the execution of the agreement; or
2. In lieu of the credit against the local occupational license fee, an appropriation agreement with the authority and the local governmental entities by which the local governmental entities will appropriate funds in an amount equal to the amount of the credit of the local occupational license fee for the benefit of the approved company in a manner

1                   consistent with the applicable state laws.

2           (g) If more than one (1) local occupational license fee is imposed upon the  
3           employees of the approved company, the assessment imposed upon the  
4           employees shall be credited against the local occupational license fee and shall  
5           be apportioned to each local occupational license fee according to each local  
6           occupational license fee's proportion to the total of all local occupational  
7           license fees for such employees. No credit, or portion thereof shall be allowed  
8           against any local occupational license fee imposed by or dedicated solely to a  
9           local board of education.

10          (h) If in any fiscal year of the approved company during which the agreement is in  
11           effect the total of the tax credits granted to the approved company plus the  
12           assessment collected from the wages of the employees exceeds the expended  
13           portion of the amount that the approved company may recover under  
14           paragraph (a) of this subsection, the approved company shall pay the excess to  
15           the Commonwealth as income tax.

16          (i) If in any fiscal year of the approved company during which the agreement is in  
17           effect the assessment collected from the wages of the employees exceeds the  
18           expended portion of the amount that the approved company may recover  
19           under paragraph (a) of this subsection, the assessment collected from the  
20           wages of the employees shall cease for the remainder of that fiscal year of the  
21           approved company, the approved company shall resume normal personal  
22           income tax and occupational license fee withholdings from the employees'  
23           wages for the remainder of that fiscal year, and the approved company shall  
24           remit to the Commonwealth and applicable local jurisdictions their respective  
25           shares of the excess assessment collected on the withholding filing date for  
26           employees' wages next succeeding the first date when the approved company  
27           collected excess assessments.

1 (j) All proceeds of any loan or other financing incurred in connection with the  
 2 economic revitalization project shall be expended by the approved company  
 3 within five (5) years from the date of the revitalization agreement. In the event  
 4 that all proceeds of any loan or other financing incurred in connection with the  
 5 economic revitalization project are not fully expended within the five (5) year  
 6 period, the authorized inducements shall automatically be reduced to and shall  
 7 not be greater than the amount of proceeds actually expended by the approved  
 8 company within the five (5) year period.

9 (2) If the approved company elects to utilize the assessment as prescribed in KRS  
 10 154.26-100, it shall not assess the wages of an employee who is party to an  
 11 individual employment contract with the approved company.

12 (3) Neither the appropriation agreement nor the agreement shall be transferable or  
 13 assignable by the approved company without the expressed written consent of the  
 14 authority.

15 Section 583. KRS 154.26-100 is amended to read as follows:

16 (1) The approved company may require that each employee subject to the income tax  
 17 imposed by KRS 141.020, whose job was preserved or created as a result of the  
 18 project, as a condition of employment or the retention of employment, agree to pay  
 19 an assessment, not to exceed, during any fiscal year of the approved company, five  
 20 percent (5%) of the gross wages of each employee subject to the income tax  
 21 imposed by KRS 141.020 whose job was retained or created as a result of the  
 22 project, unless:

23 (a) The appropriation agreement is consummated, in which case the assessment  
 24 shall be four percent (4%) of each employee's gross wages subject to the  
 25 income tax imposed by KRS 141.020;

26 (b) The local government or governments in which the project is located have a  
 27 local occupational license fee of less than one percent (1%) and agree to forgo

1 all of their local occupational license fee, in which case the assessment shall  
 2 equal four percent (4%) plus the percentage of the local occupational license  
 3 fee that the local government or governments have agreed to forgo; or

4 (c) The local government or governments in which the project is located have no  
 5 occupational license fee, in which case the assessment shall be four percent  
 6 (4%).

7 (2) Each assessed employee shall be entitled to a credit against his Kentucky income  
 8 tax required to be withheld under KRS 141.310 in the form of a simultaneous  
 9 adjustment equal to four-fifths (4/5) of the assessment, unless:

10 (a) The appropriation agreement is consummated, in which case the credit shall  
 11 be equal to one hundred percent (100%) of the assessment;

12 (b) The local government or governments in which the project is located have a  
 13 local occupational license fee of less than one percent (1%) and agree to forgo  
 14 all of their local occupational license fee, in which case the credit shall be  
 15 equal to the total assessment less the local occupational license fee; or

16 (c) If the local government or governments in which the project is located have no  
 17 local occupational license fee, in which case the credit shall be equal to one  
 18 hundred percent (100%) of the assessment.

19 (3) Each assessed employee also shall be entitled to a credit against his local  
 20 occupational license fee in the form of a simultaneous adjustment of his local  
 21 occupational license fee withholding equal to one-fifth (1/5) of the assessment,  
 22 unless:

23 (a) The appropriation agreement is consummated; or

24 (b) The local occupational license fee is less than one percent (1%), in which case  
 25 the credit shall equal the same amount as the local occupational license fee.

26 (4) If an approved company shall elect to impose the assessment as a condition of  
 27 employment or the retention of employment, it shall deduct the assessment from

1 each paycheck of each employee subject to subsections (2) and (3) of this section.

2 (5) Any approved company collecting an assessment as provided in subsection (1) of  
3 this section shall make its payroll books and records available to the authority at  
4 such reasonable times as the authority shall request, and shall file with the authority  
5 the documentation respecting the assessment the authority may require.

6 (6) Any assessment of the wages of the employees of an approved company pursuant to  
7 subsection (1) of this section shall permanently lapse upon expiration or termination  
8 of the agreement.

9 (7) By October 1 of each year, the Department of Revenue~~[-Cabinet]~~ of the  
10 Commonwealth shall certify to the authority, in the form of an annual report,  
11 aggregate income tax credits claimed on tax returns filed during the fiscal year  
12 ending June 30 of that year and job revitalization assessment fees taken during the  
13 prior calendar year by approved companies with respect to their economic  
14 revitalization projects under this subchapter, and shall certify to the authority,  
15 within ninety (90) days from the date an approved company has filed its state  
16 income tax return, when an approved company has taken income tax credits equal  
17 to its total inducements.

18 Section 584. KRS 154.28-090 is amended to read as follows:

19 The authority, upon adoption of an authorizing resolution, may enter into, with any  
20 approved company, an agreement with respect to its economic development project. The  
21 terms and provisions of each agreement, including the amount of approved costs, shall be  
22 determined by negotiations between the authority and the approved company, except that  
23 each agreement shall include the following provisions:

24 (1) The agreement shall set forth the maximum amount of inducements available to the  
25 approved company for recovery of the approved costs authorized by the authority  
26 and expended by the approved company.

27 (2) The approved company shall expend the authorized approved costs within three (3)

- 1       years of the date of the final approval by the authority.
- 2       (3) The approved company shall provide the authority with documentation as to the  
3       expenditures for approved costs in a manner acceptable to the authority.
- 4       (4) The agreement shall include the activation date and will terminate upon the earlier  
5       of the full receipt of the maximum amount of inducements by the approved  
6       company or ten (10) years from the activation date. To implement the activation  
7       date, the approved company shall notify the authority, the Kentucky Department of  
8       Revenue~~[- Cabinet]~~, and the approved company's employees of the activation date  
9       on which implementation of the inducements authorized in the agreement shall  
10      occur. The activation date shall be the time when the maximum dollar value of  
11      equipment that constitutes a portion of the economic development project under  
12      KRS 154.28-010(11) shall be determined. If the approved company does not satisfy  
13      the minimum investment and minimum employment requirements of KRS 154.28-  
14      080(3) by the activation date, the approved company shall not be entitled to receive  
15      inducements pursuant to this subchapter until the approved company satisfies the  
16      requirements; however, the ten (10) year period for the term of the agreement shall  
17      begin from the activation date. Notwithstanding the previous sentence, if the  
18      approved company does not satisfy the minimum investment and minimum  
19      employment requirements of KRS 154.28-080(3) within two (2) years from the date  
20      of final approval of the agreement, then the approved company shall be ineligible to  
21      receive inducements under this subchapter unless an extension is approved by the  
22      authority.
- 23      (5) The tax agreement shall also state that if the total number of new full-time  
24      employees at the site of the economic development project who are residents of the  
25      Commonwealth and subject to the Kentucky income tax is less than fifteen (15) at  
26      any time after activation, the authorized inducements shall be suspended for a  
27      period of up to one (1) year. If the company does not have at least fifteen (15) new

- 1 full-time employees at the site who are residents of the Commonwealth and subject  
2 to Kentucky income tax within one (1) year from the date of the initial suspension,  
3 the inducements may be terminated at the discretion of the authority.
- 4 (6) The approved company shall comply with the wage criteria set forth in KRS  
5 154.28-080(4) and provide documentation in connection with wages paid to its full-  
6 time employees hired as a result of the economic development project in a manner  
7 acceptable to the authority.
- 8 (7) The approved company may be permitted one of the following inducements during  
9 the term of the agreement and shall select the applicable inducement at the time of  
10 final approval by the authority:
- 11 (a) A one hundred percent (100%) credit against the Kentucky income tax that  
12 would otherwise be owed in the approved company's fiscal year, as  
13 determined under KRS 141.400, to the Commonwealth by the approved  
14 company on the income of the approved company generated by or arising  
15 from the economic development project; or
- 16 (b) The aggregate assessments pursuant to KRS 154.28-110 withheld by the  
17 approved company each year.
- 18 (8) Either the total income tax credit or assessments may not exceed authorized  
19 cumulative approved costs paid by the approved company in the three (3) year  
20 period commencing with the date of final approval.
- 21 (9) If the approved company elects to use the income tax credit, the income tax credited  
22 to the approved company shall be credited for the fiscal year for which the tax  
23 return of the approved company is filed. The approved company shall not be  
24 required to pay estimated income tax payments as prescribed in KRS 141.042 on  
25 the Kentucky taxable income generated by or arising from the economic  
26 development project.
- 27 (10) The agreement may be assigned by the approved company only upon the prior

1 written consent of the authority following the adoption of a resolution by the  
2 authority to that effect.

3 (11) The agreement shall provide that if an approved company fails to comply with its  
4 obligations under the agreement then the authority shall have the right, at its option,  
5 to:

6 (a) Suspend either the income tax credits or assessments available to the approved  
7 company, pursuant to subsection (5) of this section;

8 (b) Pursue any remedy provided under the agreement, including termination  
9 thereof; and

10 (c) Pursue any other remedy at law to which it may be entitled.

11 (12) All remedies provided in subsection (11) of this section shall be deemed to be  
12 cumulative.

13 (13) By October 1 of each year, the Department of Revenue~~[Cabinet]~~ shall certify to the  
14 authority, in the form of an annual report, aggregate income tax credits claimed on  
15 tax returns filed during the fiscal year ending June 30 of that year and assessments  
16 taken during the prior calendar year by approved companies with respect to their  
17 economic development projects under this subchapter, and shall certify to the  
18 authority, within ninety (90) days from the date an approved company has filed its  
19 state income tax return, when an approved company has taken income tax credits or  
20 assessments equal to its total inducements.

21 Section 585. KRS 154.34-080 is amended to read as follows:

22 The authority, upon adoption of its final approval, may enter into with any approved  
23 company a reinvestment agreement with respect to its project. The terms and provisions  
24 of each agreement, including the amount of approved costs, shall be determined by  
25 negotiations between the authority and the approved company, except that each  
26 reinvestment agreement shall include the following provisions:

27 (1) The agreement shall set a date by which the approved company will have completed



1 the project. Within three (3) months of the completion date, the approved company  
2 shall document its expenditures of the eligible costs attributable to the project in a  
3 manner acceptable to the authority. The authority may employ an independent  
4 consultant or utilize technical resources to verify the cost of the project. The  
5 approved company shall reimburse the authority for the cost of a consultant or other  
6 technical resources employed by the authority;

7 (2) In consideration of the execution of the agreement between the authority and  
8 approved company, the approved company may be permitted one (1) or both of the  
9 following inducements:

10 (a) A credit against the Kentucky income tax imposed by KRS 141.020 or  
11 141.040 on the income of the approved company generated by or arising out  
12 of the reinvestment project as determined under KRS 141.415;

13 (b) A credit against the Kentucky license tax imposed by KRS 136.070 on the  
14 approved company as determined under KRS 141.416;

15 (3) The total inducements authorized in the agreement for the benefits of the approved  
16 company shall be equal to the lesser of the total amount of the tax liability or the  
17 approved costs that have not yet been recovered. The inducements shall be allowed  
18 for each fiscal year of the approved company during the term of the agreement and  
19 for which a tax return of the approved company is filed. The approved company  
20 shall not be required to pay estimated income tax payments as prescribed under  
21 KRS 141.044 or 141.305 on income from the project;

22 (4) The agreement shall provide that the term shall not be longer than the earlier of:

23 (a) The date on which the approved company has received inducements equal to  
24 the approved costs of its reinvestment project; or

25 (b) Ten (10) years from the date of final approval granted by the authority;

26 (5) All eligible costs of the project shall be expended by the approved company within  
27 three (3) years from the date of final approval by the authority. In the event that all

1 eligible costs of the project are not fully expended by the approved company within  
2 the three (3) year period, the authority is authorized to:

- 3 (a) Reduce the inducements; or
- 4 (b) Suspend the inducements; or
- 5 (c) Terminate the agreement;

6 (6) If the agreement is terminated, the authority may require the approved company to  
7 repay the Department of Revenue~~[Cabinet]~~ of the Commonwealth all or part of any  
8 inducements received by the approved company prior to the termination of the  
9 agreement;

10 (7) The agreement shall specify that the approved company shall make available all of  
11 its records pertaining to the project, including but not limited to payroll records,  
12 records relating to the expenditure of eligible costs and approved costs, and any  
13 other records pertaining to the project as the authority may require; and

14 (8) The agreement shall not be transferred or assigned by the approved company  
15 without the expressed written consent of the authority.

16 Section 586. KRS 154.34-090 is amended to read as follows:

17 By October 1 of each year, the Department of Revenue~~[Cabinet]~~ of the Commonwealth  
18 shall certify to the authority, in the form of an annual report, aggregate income tax credits  
19 claimed on tax returns filed during the fiscal year ending June 30 of that year by approved  
20 companies with respect to their reinvestment projects under KRS 154.34-010 to 154.34-  
21 100, 141.415, and 141.416, and shall certify to the authority, within ninety (90) days from  
22 the date an approved company has filed its state income tax return, when an approved  
23 company has taken inducements equal to its approved costs.

24 Section 587. KRS 154.45-060 is amended to read as follows:

25 (1) For the purposes of carrying out the provisions of KRS 154.45-020 to 154.45-110,  
26 there is created the Enterprise Zone Authority of Kentucky consisting of eleven (11)  
27 members. The authority shall be appointed as follows: one (1) member appointed by

1 the Governor from a list of three (3) persons nominated by the Labor Management  
 2 Advisory Council; one (1) member appointed by the Governor from a list of three  
 3 (3) persons nominated by the Kentucky League of Cities; one (1) member appointed  
 4 by the Governor from a list of three (3) persons nominated by the Kentucky  
 5 Association of Counties; one (1) member appointed by the Governor who is  
 6 qualified to represent the interests of Kentucky's small business community; one (1)  
 7 member appointed by the Governor from a list of three (3) persons nominated by  
 8 the AFL-CIO of Kentucky; two (2) members appointed by the Governor to serve at  
 9 large; one (1) member appointed by the Governor from a list of five (5) persons  
 10 nominated by the secretary of the Cabinet for Economic Development; the secretary  
 11 of the Cabinet for Economic Development or his designee; the secretary of the  
 12 *Finance and Administration*~~[Revenue]~~ Cabinet or his designee; and the secretary  
 13 of the Cabinet for Families and Children or his designee.

14 (2) Authority members shall serve a term of four (4) years and, except for the secretary  
 15 of the Cabinet for Economic Development, the secretary of the *Finance and*  
 16 *Administration*~~[Revenue]~~ Cabinet, and the secretary of the Cabinet for Families and  
 17 Children, shall not be eligible to succeed themselves.

18 (3) The authority shall meet at least four (4) times per year. A majority of the total  
 19 authority membership shall be required to designate an area as an enterprise zone  
 20 and to certify businesses as qualified businesses. The authority shall keep official  
 21 minutes of all meetings. All members shall serve until such time as their successors  
 22 are qualified and appointed. Each member of the authority shall receive one  
 23 hundred dollars (\$100), not to exceed twelve hundred dollars (\$1,200) per calendar  
 24 year, as compensation for attending official meetings of the authority. Each member  
 25 of the authority shall be reimbursed for travel expenses actually incurred in the  
 26 discharge of his duties on the authority.

27 (4) The Cabinet for Economic Development shall serve as staff for the authority and

1 carry out the administrative duties and functions as directed by the authority.

2 Section 588. KRS 154.45-070 is amended to read as follows:

3 The authority shall administer the provisions of KRS 154.45-020 to 154.45-110, and  
4 shall:

- 5 (1) Establish by administrative regulation a process to monitor compliance by local  
6 governments and qualified businesses with the provisions of the Enterprise Zone  
7 Program;
- 8 (2) Initiate contact and fully cooperate with the Department of Revenue~~[Cabinet]~~ in  
9 the collection of information to determine the fiscal impact of enterprise zone tax  
10 exemptions on state revenues;
- 11 (3) Report to the General Assembly no later than October 1 annually regarding:
  - 12 (a) The authority's method of monitoring the Enterprise Zone Program;
  - 13 (b) Information on the fiscal impact of enterprise zone tax exemptions on state  
14 revenues;
  - 15 (c) The authority's method of reviewing local incentives;
  - 16 (d) Information on the number of qualified businesses per zone;
  - 17 (e) Information on the number of requests for amendments to zone boundaries  
18 and the number of amendments granted and denied; and
  - 19 (f) Recommendations requiring state legislative action;
- 20 (4) Revoke designation of an area as an enterprise zone pursuant to the provisions of  
21 KRS 154.45-050.
- 22 (5) Prohibit the certification of businesses in an enterprise zone if the local government  
23 has been notified in writing by the authority of the authority's intent to revoke the  
24 local government's designation as an enterprise zone. The prohibition of  
25 certification of businesses shall continue until the authority officially revokes the  
26 local government's enterprise zone designation, or notifies the local government in  
27 writing that the problems cited by the authority have been corrected and the

1 enterprise zone designation shall not be revoked;

2 (6) Offer technical assistance and job training assistance to local governments, qualified  
3 businesses, and neighborhood enterprise association corporations; and

4 (7) Aggressively review local incentives and commitments on an annual basis.

5 Section 589. KRS 154.45-110 is amended to read as follows:

6 (1) The Department of Revenue~~[Cabinet]~~ shall initiate contact and fully cooperate  
7 with the authority in the collection of information to determine the fiscal impact of  
8 enterprise zone tax exemptions on state revenues.

9 (2) Report to the General Assembly no later than October 1 annually regarding:

10 (a) The department's~~[cabinet's]~~ method of monitoring the Enterprise Zone  
11 Program;

12 (b) Information on the fiscal impact of enterprise zone tax exemptions on state  
13 revenues; and

14 (c) Recommendations requiring state legislative action.

15 (3) The Department of Revenue~~[Cabinet]~~ shall by administrative regulation amend its  
16 sales and use tax return to collect fiscal information on qualified businesses within  
17 an enterprise zone for purposes of reporting to the General Assembly.

18 (4) The Department of Revenue~~[Cabinet]~~ shall promulgate administrative regulations  
19 to establish a process for the collection of tax information relating to enterprise zone  
20 tax exemptions.

21 Section 590. KRS 156.076 is amended to read as follows:

22 The chief state school officer shall furnish full information on established price contracts  
23 to each district board of education. Any board of education may purchase supplies and  
24 equipment from the vendor to whom the contract has been awarded, under the terms of  
25 the contract. Any board of education may advertise for its own bids on supplies and  
26 equipment which meet the specifications of the contracts awarded by the Office~~[Division]~~  
27 of Material and Procurement Services in the Office of the Controller. Any board of

1 education, after advertising for bids, may award contracts if the chief state school officer  
2 certifies that the bid offers supplies and equipment which meet the standards and  
3 specifications fixed by the Kentucky Board of Education and that the bid price is lower  
4 than that established by the price contract agreement. If supplies and equipment that meet  
5 the specifications of the contracts awarded by the Office~~[Division]~~ of Material and  
6 Procurement Services or a federal, local, or cooperative agency are available for purchase  
7 elsewhere, a board of education may purchase those supplies and equipment without  
8 advertising for bids. However, prior to making the purchases, the board of education shall  
9 obtain certification from:

10 (1) The Department of Education for technology components defined in the master plan  
11 for education technology for which standards have been established by the  
12 Kentucky Board of Education. The department shall certify that the items to be  
13 purchased meet or exceed, at a lower cost, the specifications of the components of  
14 the original equipment of manufacturers currently holding Kentucky education  
15 technology system price contracts; and

16 (2) The district's finance officer for supplies and equipment other than that described in  
17 subsection (1) of this section. He shall certify that the items to be purchased meet  
18 the standards and specifications fixed by state price contract, federal (GSA) price  
19 contract, the local school district's bid, or the bid of another school district whose  
20 bid specifications allow other districts to utilize their bids, and that the sales price is  
21 lower than that established by the price contract agreement or available through the  
22 bidding process and the price does not exceed two thousand five hundred dollars  
23 (\$2,500).

24 Section 591. KRS 156.666 is amended to read as follows:

25 (1) There is established the Council for Education Technology which shall be an  
26 advisory group attached to the Kentucky Board of Education. The council shall  
27 develop a master plan for education technology.

1 (2) The council shall consist of the executive director of the Commonwealth Office of  
2 Technology~~[chief information officer]~~, the secretary of the Education, Arts, and  
3 Humanities Cabinet, and the president of the Council on Postsecondary Education  
4 who shall serve as ex officio voting members and eight (8) voting members  
5 appointed by the Governor within thirty (30) days after April 3, 1992. The members  
6 shall be as follows:

- 7 (a) One (1) member of the Kentucky Board of Education;  
8 (b) One (1) member of the House of Representatives;  
9 (c) One (1) member of the Senate; and  
10 (d) Five (5) citizens of the Commonwealth.

11 A majority of the membership present at any meeting shall constitute a quorum for  
12 the official conduct of business.

13 (3) Members shall be appointed for four (4) year terms and may be reappointed. The  
14 initial members of the board shall be appointed as follows: two (2) members shall  
15 be appointed for terms of two (2) years; two (2) members shall be appointed for  
16 terms of three (3) years; and four (4) members shall be appointed for terms of four  
17 (4) years. Members shall receive no compensation but may be reimbursed for actual  
18 and necessary expenses in accordance with state laws and regulations.

19 (4) Terms of members serving pursuant to KRS 156.665 shall terminate on April 3,  
20 1992.

21 (5) Immediately upon receiving notice of the appointment of all members, the chief  
22 state school officer shall call an organizational meeting. At this meeting the chief  
23 state school officer shall preside as temporary chairman, and the council shall elect  
24 from among the members a chairman and any other officers it deems necessary, and  
25 define the duties of the officers.

26 (6) Meetings shall be held at least two (2) times per year at a time and place designated  
27 by the chairman. The Department of Education shall provide staff support for the

1 council.

2 (7) The duties and responsibilities of the council shall include, but not be limited to, the  
3 following:

- 4 (a) Developing a long-range master plan for the efficient and equitable use of  
5 technology at all levels from primary school through higher education,  
6 including vocational and adult education. The plan shall focus on the  
7 technology requirements of classroom instruction, literacy laboratories,  
8 student record management, financial and administrative management,  
9 distance learning, and communications as they relate to the Commonwealth's  
10 outcome goals for students as described in KRS 158.6451;
- 11 (b) Creating, overseeing, and monitoring a well-planned and efficient statewide  
12 network of technology services designed to meet the educational and  
13 informational needs of the schools;
- 14 (c) Working with private enterprise to encourage the development of technology  
15 products specifically designed to answer Kentucky's educational needs;
- 16 (d) Encouraging an environment receptive to technological progress in education  
17 throughout the Commonwealth;
- 18 (e) Recommending a policy governing the granting of rights-of-way for the laying  
19 of fiber optic cable in a manner to insure that all of Kentucky's citizens are  
20 served equitably, that the fiber optic system is available for educational  
21 technology purposes, and that the private and public sectors are partners in the  
22 venture; and
- 23 (f) Receiving, holding, investing, and administering all funds received by the  
24 council for the purpose of carrying out its duties and responsibilities, as set out  
25 in this section. These funds shall be spent with the aim of achieving equality  
26 of education throughout the Commonwealth.

27 Section 592. KRS 157.615 is amended to read as follows:



1 As used in KRS 157.611 to 157.640, unless the context requires otherwise:

- 2 (1) "Available local revenue" means the sum of the school building fund account  
3 balance; the bonding potential of the capital outlay and building funds; and the  
4 capital outlay fund account balance on June 30 of odd-numbered years. These  
5 accounts shall be as defined in the manual for Kentucky school financial accounting  
6 systems;
- 7 (2) "Board of education" means the governing body of a county school district or an  
8 independent school district;
- 9 (3) "Bonds" or "bonds of the commission" means bonds issued by the commission, or  
10 issued by a city, county, or other agency or instrumentality of the Board of  
11 Education, in accordance with KRS Chapter 162, payable as to principal and  
12 interest from rentals received from a board of education or from the department  
13 pursuant to a lease or from contributions from the commission, and constitute  
14 municipal bonds exempt from taxation under the Constitution of the  
15 Commonwealth;
- 16 (4) "Department" means the State Department of Education;
- 17 (5) "District technology plan" means the plan developed by the local district and the  
18 Department of Education and approved by the Kentucky Board of Education upon  
19 the recommendation of the Council for Education Technology;
- 20 (6) "Equivalent tax rate" means the rate which results when the income from all taxes  
21 levied by the district for school purposes is divided by the total assessed value of  
22 property plus the assessment for motor vehicles certified by the Department of  
23 Revenue~~[Cabinet]~~ as provided by KRS 160.470;
- 24 (7) "Kentucky Education Technology System" means the statewide system set forth in  
25 the technology master plan issued by the Kentucky Board of Education with the  
26 recommendation of the Council for Education Technology and approved by the  
27 Legislative Research Commission;

- 1 (8) "Lease" or "lease instrument" means a written instrument for the leasing of one (1)  
2 or more school projects executed by the commission as lessor and a board of  
3 education as lessee, or executed by the commission as lessor and the department as  
4 lessee, as the case may be;
- 5 (9) "Lease/purchase agreement" means a lease between the school district or the  
6 department and a vendor that includes an option to purchase the technology  
7 equipment or software at the end of the lease period;
- 8 (10) "Percentage discount" means the degree to which the commission will participate in  
9 meeting the bond and interest redemption schedule required to amortize bonds  
10 issued by the commission on behalf of a local school district;
- 11 (11) "Project" means a defined item of need to construct new facilities or to provide  
12 major renovation of existing facilities which is identified on the priority schedule of  
13 the approved school facilities plan;
- 14 (12) "School facilities plan" means the plan developed pursuant to the survey specified  
15 by KRS 157.420 and by administrative regulations of the Kentucky Board of  
16 Education;
- 17 (13) "Technology master plan" means the long-range plan for the implementation of the  
18 Kentucky Education Technology System as developed by the Council for Education  
19 Technology and approved by the Kentucky Board of Education and the Legislative  
20 Research Commission;
- 21 (14) "Unmet facilities need" means the total cost of new construction and major  
22 renovation needs as shown by the approved school facilities plan less any available  
23 local revenue;
- 24 (15) "Unmet technology need" means the total cost of technology need as shown by the  
25 approved technology plan of the local district; and
- 26 (16) "Eligible district" means any local school district having an unmet facilities need, as  
27 defined in this section, in excess of one hundred thousand dollars (\$100,000) or a

1 district qualifying for education technology funding.

2 Section 593. KRS 160.460 is amended to read as follows:

3 (1) All school taxes shall be levied by the board of education of each school district.

4 The tax-levying authority shall levy an ad valorem tax within the limits prescribed  
5 in KRS 160.470, which will obtain for the school district the amount of money  
6 needed as shown in the district's general school budget submitted under the  
7 provisions of KRS 160.470.

8 (2) The tax-levying authority shall make an annual school levy not later than July 1.

9 The school levy shall not be made until the general school budget has been received  
10 and approved by the Kentucky Board of Education. The failure of the authority to  
11 make the levy by the date prescribed shall not invalidate any levy made thereafter.

12 (3) All school taxes shall be levied on all property subject to local taxation in the  
13 jurisdiction of the tax-levying authority. If the school levy is to be made upon the  
14 city assessment, which is hereby authorized for independent school districts  
15 embraced by cities of the first four (4) classes, the clerk of the city shall furnish to  
16 the school district or districts which the city embraces, the assessed valuation of  
17 property subject to local taxation in the school district, as determined by its tax  
18 assessor. If the school levy is to be made upon the county assessment the county  
19 clerk shall furnish to the proper school district or districts the assessed valuation of  
20 property subject to local taxation in the district or districts, as certified by the  
21 Kentucky Department of Revenue~~[Cabinet]~~. No later than July 1, 1994, all real  
22 property located in the state and subject to local taxation shall be assessed at one  
23 hundred percent (100%) of fair cash value.

24 Section 594. KRS 160.470 is amended to read as follows:

25 (1) (a) Notwithstanding any statutory provisions to the contrary, no district board of  
26 education shall levy a general tax rate which will produce more revenue,  
27 exclusive of revenue from net assessment growth as defined in KRS 132.010,

1 than would be produced by application of the general tax rate that could have  
 2 been levied in the preceding year to the preceding year's assessment, except as  
 3 provided in subsection (9) of this section and KRS 157.440.

- 4 (b) If an election is held as provided for in KRS 132.017 and the question should  
 5 fail, such failure shall not reduce the "...general tax rate that could have been  
 6 levied in the preceding year...", referred to in subsection (1)(a) of this section,  
 7 for purposes of computing the general tax rate for succeeding years.

8 In the event of a merger of school districts, the limitations contained in this section  
 9 shall be based upon the combined revenue of the merging districts, as computed  
 10 under the provisions of this section.

- 11 (2) No district board of education shall levy a general tax rate within the limits imposed  
 12 in subsection (1) of this section which respectively exceeds the compensating tax  
 13 rate defined in KRS 132.010, except as provided in subsection (9) of this section,  
 14 KRS 157.440, and KRS 157.621, until the district board of education has complied  
 15 with the provisions of subsection (7) of this section.

- 16 (3) Upon receipt of property assessments from the Department of Revenue~~[Cabinet]~~,  
 17 the commissioner of education shall certify the following to each district board of  
 18 education:

- 19 (a) The general tax rate that a district board of education could levy under the  
 20 provisions of subsection (1) of this section, and the amount of revenue  
 21 expected to be produced;

- 22 (b) The compensating tax rate as defined in KRS 132.010 for a district's general  
 23 tax rate the amount of revenue expected to be produced;

- 24 (c) The general tax rate which will produce, respectively, no more revenue from  
 25 real property, exclusive of revenue from new property, than four percent (4%)  
 26 over the amount of revenue produced by the compensating tax rate defined in  
 27 KRS 132.010, and the amount of revenue expected to be produced.

1 (4) Upon completion of action on property assessment data, the Department of  
2 Revenue~~[Cabinet]~~ shall submit certified property assessment data as required in  
3 KRS 133.125 to the chief state school officer.

4 (5) Within thirty (30) days after the district board of education has received its  
5 assessment data, the rates levied shall be forwarded to the Kentucky Board of  
6 Education for its approval or disapproval. The failure of the district board of  
7 education to furnish the rates within the time prescribed shall not invalidate any  
8 levy made thereafter.

9 (6) (a) Each district board of education shall, on or before January 31 of each  
10 calendar year, formally and publicly examine detailed line item estimated  
11 revenues and proposed expenditures for the subsequent fiscal year. On or  
12 before May 30 of each calendar year, each district board of education shall  
13 adopt a tentative working budget which shall include a minimum reserve of  
14 two percent (2%) of the total budget.

15 (b) Each district board of education shall submit to the Kentucky Board of  
16 Education no later than September 30, a close estimate or working budget  
17 which shall conform to the administrative regulations prescribed by the  
18 Kentucky Board of Education.

19 (7) (a) Except as provided in subsection (9) of this section and KRS 157.440, a  
20 district board of education proposing to levy a general tax rate within the  
21 limits of subsection (1) of this section which exceed the compensating tax rate  
22 defined in KRS 132.010 shall hold a public hearing to hear comments from  
23 the public regarding the proposed tax rate. The hearing shall be held in the  
24 principal office of the taxing district or, in the event the taxing district has no  
25 office, or the office is not suitable for such a hearing, the hearing shall be held  
26 in a suitable facility as near as possible to the geographic center of the district.

27 (b) The district board of education shall advertise the hearing by causing the

1 following to be published at least twice for two (2) consecutive weeks, in the  
 2 newspaper of largest circulation in the county, a display type advertisement of  
 3 not less than twelve (12) column inches:

- 4 1. The general tax rate levied in the preceding year, and the revenue  
 5 produced by that rate;
- 6 2. The general tax rate for the current year, and the revenue expected to be  
 7 produced by that rate;
- 8 3. The compensating general tax rate, and the revenue expected from it;
- 9 4. The revenue expected from new property and personal property;
- 10 5. The general areas to which revenue in excess of the revenue produced in  
 11 the preceding year is to be allocated;
- 12 6. A time and place for the public hearing which shall be held not less than  
 13 seven (7) days nor more than ten (10) days after the day that the second  
 14 advertisement is published;
- 15 7. The purpose of the hearing; and
- 16 8. A statement to the effect that the General Assembly has required  
 17 publication of the advertisement and the information contained herein.

18 (c) In lieu of the two (2) published notices, a single notice containing the required  
 19 information may be sent by first-class mail to each person owning real  
 20 property, addressed to the property owner at his residence or principal place of  
 21 business as shown on the current year property tax roll.

22 (d) The hearing shall be open to the public. All persons desiring to be heard shall  
 23 be given an opportunity to present oral testimony. The district board of  
 24 education may set reasonable time limits for testimony.

25 (8) (a) That portion of a general tax rate, except as provided in subsection (9) of this  
 26 section, KRS 157.440, and KRS 157.621, levied by an action of a district  
 27 board of education which will produce, respectively, revenue from real

property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, except as provided in subsection (9) of this section and KRS 157.440, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause the following to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The fact that the district board of education has adopted such a rate;
2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and
3. The name, address, and telephone number of the county clerk of the county or urban-county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

(9) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after June 30, 1990, the board of education of each school district shall levy a minimum equivalent tax rate of thirty cents (\$0.30) for general school purposes. Equivalent tax rate is defined as the rate which

1 results when the income collected during the prior year from all taxes levied  
 2 by the district for school purposes is divided by the total assessed value of  
 3 property plus the assessment for motor vehicles certified by the Department  
 4 of Revenue~~["Cabinet"]~~. School districts collecting school taxes authorized by  
 5 KRS 160.593 to 160.597, 160.601 to 160.633, or 160.635 to 160.648 for less  
 6 than twelve (12) months during a school year shall have included in income  
 7 collected under this section the pro rata tax collection for twelve (12) months.

8 (b) If a board fails to comply with paragraph (a) of this subsection, its members  
 9 shall be subject to removal from office for willful neglect of duty pursuant to  
 10 KRS 156.132.

11 Section 595. KRS 160.6131 is amended to read as follows:

12 As used in KRS 160.613 to 160.617:

13 (1) "Department"~~["Cabinet"]~~ means the Department of Revenue~~["Cabinet"]~~.

14 (2) "Communications service" shall have the same meaning as provided in KRS  
 15 139.195 but does not include:

16 (a) Prepaid calling services;

17 (b) Interstate telephone service, if the interstate charge is separately itemized for  
 18 each call; and

19 (c) If the interstate calls are not itemized, the portion of telephone charges  
 20 identified and set out on the customer's bill as interstate as supported by the  
 21 provider's books and records.

22 (3) "Gross cost" means the total cost of utility services including the cost of the tangible  
 23 personal property and any services associated with obtaining the utility services  
 24 regardless from whom purchased.

25 (4) "Gross receipts" means all amounts received in money, credits, property, or other  
 26 money's worth in any form, as consideration for the furnishing of utility services.

27 (5) "Utility services" means the furnishing of communications services, electric power,



1 water, and natural, artificial, and mixed gas.

2 Section 596. KRS 160.627 is amended to read as follows:

3 (1) The Department of Revenue~~[-Cabinet]~~ shall, where that department~~[-cabinet]~~ is not  
 4 acting as such, make available to the tax collector, or to the school district, where  
 5 the Department of Revenue~~[-Cabinet]~~ is acting as tax collector under subsection (2)  
 6 of this section, by October 1 of each year, such information as the tax collector or  
 7 the school district may request concerning the state income tax liability of the  
 8 school district residents. This~~[Such]~~ information shall be made available on a  
 9 confidential basis as provided in KRS 131.190.

10 (2) The Department of Revenue~~[-Cabinet]~~, upon request by a school district, shall act  
 11 as tax collector for the school tax authorized by KRS 160.621, and the Department  
 12 of Revenue~~[-Cabinet]~~, where so acting, KRS 160.625 notwithstanding, may in its  
 13 own discretion incorporate its tax collecting duties with those relative to collection  
 14 of state individual income taxes under KRS Chapter 141, thereby making an  
 15 individual's tax payment hereunder due along with his individual income tax  
 16 payment and subject to law applicable to such as to time and manner of payment.  
 17 Tax required to be paid under the provisions of this chapter shall be remitted  
 18 together with the state income tax return. The Department of Revenue~~[-Cabinet]~~,  
 19 when so acting, KRS 160.500 notwithstanding, shall remit school excise taxes  
 20 collected to the school districts for which it is acting as tax collector in a reasonably  
 21 timely and expeditious manner.

22 Section 597. KRS 160.637 is amended to read as follows:

23 (1) "Requesting school districts" shall mean those school districts for which the  
 24 Department of Revenue~~[-Cabinet]~~ is requested to act as tax collector under the  
 25 authority of KRS 160.627(2).  
 26 (2) Reasonable expenses not to exceed the actual costs of collection incurred by any tax  
 27 collector, except the Department of Revenue~~[-Cabinet]~~, for the administration or

1 collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to  
 2 160.617, and 160.621 to 160.633 shall be reimbursed by the school district boards  
 3 of education on a monthly basis or on the basis agreed upon by the boards of  
 4 education and the tax collector. The expenses shall be borne by the school districts  
 5 on a basis proportionate to the revenue received by the districts.

6 (3) The following shall apply only when the Department of Revenue~~[Cabinet]~~ is  
 7 acting as tax collector under the authority of KRS 160.627(2):

8 (a) When the department~~[cabinet]~~ is initially requested to be the tax collector  
 9 under KRS 160.627(2), the department~~[cabinet]~~ shall estimate the costs of  
 10 implementing the administration of the tax so requested, and shall inform the  
 11 requesting school district of this estimated cost. The requesting school district  
 12 shall pay to the department~~[cabinet]~~ ten percent (10%) of this estimated cost  
 13 referred to as "start-up costs" within thirty (30) days of notification by the  
 14 department~~[cabinet]~~. Subsequent requesting school districts shall pay their  
 15 pro rata share, or ten percent (10%), whichever is less, of the unpaid balance  
 16 of the initial "start-up costs" until the department~~[cabinet]~~ has fully recovered  
 17 the costs. The payment shall be made within thirty (30) days of notification by  
 18 the department~~[cabinet]~~.

19 (b) The Department of Revenue~~[Cabinet]~~ shall also be reimbursed by each  
 20 school district for its proportionate share of the actual operational expenses  
 21 incurred by the department~~[cabinet]~~ in collecting the excise tax. The  
 22 expenses, which shall be deducted by the Department of Revenue~~[Cabinet]~~  
 23 from payments to school districts made under the provisions of KRS  
 24 160.627(2), shall be allocated by the department~~[cabinet]~~ to school districts  
 25 on a basis proportionate to the number of returns processed by the  
 26 Department of Revenue~~[Cabinet]~~ for each district compared to the total  
 27 processed by the Department of Revenue~~[Cabinet]~~ for all districts.

- (c) All funds received by the department~~[cabinet]~~ under the authority of paragraphs (a) and (b) of this subsection shall be deposited into an account entitled the "school tax fund account," an account created within the restricted fund group set forth in KRS 45.305. The use of these funds shall be restricted to paying the department~~[cabinet]~~ for the costs described in paragraphs (a) and (b) of this subsection. This account shall not lapse.
- (d) The department~~[cabinet]~~ may retain a portion of the school tax revenues collected in a special account entitled the "school tax refund account" which is an account created within the restricted fund group set forth in KRS 45.305. The sole purpose of this account shall be to authorize the Department of Revenue~~[Cabinet]~~ to refund school taxes. This account shall not lapse. Refunds shall be made in accordance with the provisions in KRS 134.580(4), and when the taxpayer has made an overpayment or a payment where no tax was due as defined in KRS 134.580(5), within four (4) years of payment.
- (e) KRS 160.621 notwithstanding, when the department~~[cabinet]~~ is acting as tax collector under the authority of KRS 160.627(2), the requesting school district may enact the tax enumerated in KRS 160.621 only at the following rates: five percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent (20%) on a school district resident's state individual income tax liability as computed under KRS Chapter 141.
- (f) Beginning August 1, 1982, any school district which requests the department~~[cabinet]~~ to collect taxes under the authority of KRS 160.627(2) shall inform the department~~[cabinet]~~ of this request not less than one hundred fifty (150) days prior to January 1.
- (g) The department~~[cabinet]~~ shall not be required to collect taxes authorized in KRS 160.621 of an individual when the department~~[cabinet]~~ is not pursuing collection of that individual's state income taxes. The department~~[cabinet]~~

1           shall not be required to collect or defend the tax set forth in KRS 160.621 in  
2           any board or court of this state.

3           (h) Any overpayments of the tax set forth in KRS 141.020 or payments made  
4           when no tax was due may be applied to any tax liability arising under KRS  
5           160.621 before a refund is authorized to the taxpayer. No individual's tax  
6           payment shall be credited to the tax set forth in KRS 160.621 until all  
7           outstanding state income tax liabilities of that individual have been paid.

8           (i) KRS 160.510 notwithstanding, the State Auditor shall be the only party  
9           authorized to audit the Department of Revenue~~[Cabinet]~~ with respect to the  
10          performance of its duties under KRS 160.621.

11          Section 598. KRS 160.640 is amended to read as follows:

12          Any person having custody of the proceeds of any school tax authorized by KRS 160.605  
13          to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be required to secure a  
14          corporate surety bond in an amount to be set by the Kentucky Board of Education. The  
15          cost of the surety bond shall be considered a part of the cost of the administration of the  
16          school taxes authorized under KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621  
17          to 160.633.

18          160.640 Custodian of tax funds to give bond -- Expense, how paid. (Effective July  
19          1, 2005)

20          Any person having custody of the proceeds of any school tax authorized by KRS 160.605  
21          to 160.611, 160.613 to 160.617, and 160.621 to 160.633, except the Department of  
22          Revenue~~[Cabinet]~~, shall be required to secure a corporate surety bond in an amount to be  
23          set by the Kentucky Board of Education. The cost of the surety bond shall be considered a  
24          part of the cost of the administration of the school taxes authorized under KRS 160.605 to  
25          160.611, 160.613 to 160.617, and 160.621 to 160.633.

26          Section 599. KRS 164.357 is amended to read as follows:

27          (1) There is established as a separate administrative body of state government the

1 Governmental Services Center at Kentucky State University which shall be attached  
2 to the Personnel~~[Finance and Administration]~~ Cabinet for administrative purposes.

3 The center shall be governed by the Governmental Services Center Authority.

- 4 (2) The authority shall consist of the president of Kentucky State University, who shall  
5 be chairman, the secretary of the Finance and Administration Cabinet, the secretary  
6 of the Personnel Cabinet, two (2) members appointed by the Governor, each of  
7 whom shall serve as ex officio voting members of the authority, and two (2) other  
8 voting members to be appointed by the chairman of the authority. Appointed  
9 members shall be citizens and residents of the Commonwealth of Kentucky. The  
10 initial term of one (1) of the members appointed by the chairman shall be for two  
11 (2) years, and the initial term of the other appointed member shall be for a term of  
12 four (4) years; thereafter, all appointments shall be for terms of four (4) years, but  
13 appointed members shall be removable at will by the chairman of the authority.

- 14 (3) The Governmental Services Center at Kentucky State University, under direction of  
15 the authority, shall be responsible for the development, coordination, content,  
16 approval, and implementation of all training, employee development, and related  
17 programs conducted for and on behalf of all program cabinets, departments,  
18 administrative bodies, and program managers of the state government. The center  
19 shall conduct, or cause to be conducted, ongoing management training programs for  
20 all program managers and supervisors within the executive branch of state  
21 government. The organizational units whose supervisors and managers received  
22 training at the center shall share the cost of the training on a pro rata basis. The  
23 center shall encourage the enrollment of state employees in academic courses and  
24 programs at Kentucky State University. If desired academic courses are not  
25 available at the university, and cannot feasibly be developed by the university, other  
26 universities and community colleges within the Commonwealth shall be utilized.  
27 The authority shall determine the appropriateness of all such programs.

1 (4) The authority may employ an executive director and other employees necessary to  
 2 perform the functions of the center in accordance with the provisions of KRS  
 3 Chapter 18A. The executive director or any staff member of the center may hold  
 4 concurrently with their employment by the center, and subject to the provisions of  
 5 KRS 164.360 and 164.365, faculty appointments of appropriate rank at Kentucky  
 6 State University.

7 (5) Members of the authority who are not either state or university employees shall be  
 8 reimbursed for their actual expenses in attending meetings for the authority.

9 Section 600. KRS 164A.703 is amended to read as follows:

10 (1) The fund shall be governed by an eleven (11) member board of directors. The board  
 11 shall have five (5) ex officio voting members including the State Treasurer, the  
 12 president of the Council on Postsecondary Education or designee, the secretary of  
 13 the Finance Cabinet or designee, ~~the secretary of the Revenue Cabinet or designee,~~  
 14 the chair of the Association of Independent Kentucky Colleges and Universities or  
 15 designee, three (3) members appointed by the State Treasurer, and three (3)  
 16 members appointed by the Governor. The executive director of the Higher  
 17 Education Assistance Authority or designee shall serve as a nonvoting member. The  
 18 gubernatorial and State Treasurer appointees shall have experience in finance,  
 19 accounting, or investment management.

20 (2) Of the members to be appointed initially by the State Treasurer, one (1) shall be  
 21 appointed for a three (3) year term, and two (2) shall be appointed for a four (4) year  
 22 term; of the members to be appointed by the Governor, two (2) shall be appointed  
 23 for a two (2) year term and one (1) for a three (3) year term. Thereafter, all  
 24 appointments shall be for terms of four (4) years, except that appointments to fill  
 25 vacancies shall be for the unexpired terms. No person shall be appointed to serve  
 26 for more than two (2) successive four (4) year terms. No person holding a full-time  
 27 office or position of employment with the state, any county or city, or any

1 educational institution shall be eligible for gubernatorial appointment to the board.

2 (3) Members of the board shall receive no compensation but shall be reimbursed  
3 expenses incurred in the performance of their duties at the same per diem and travel  
4 rate as is paid the employees of the state.

5 (4) The State Treasurer shall be the chair and presiding officer of the board. The State  
6 Treasurer may appoint other officers as the board may deem advisable or necessary.  
7 A majority of the members of the board shall constitute a quorum for the transaction  
8 of the business of the fund.

9 (5) The initial board appointments shall be made by October 1, 2000.

10 Section 601. KRS 165A.340 is amended to read as follows:

11 (1) There is hereby established a State Board for Proprietary Education which shall be  
12 attached to the Cabinet for Finance and Administration, Office of Administrative  
13 Services~~[Department for Administration]~~, Division of Occupations and Professions  
14 and shall consist of eleven (11) voting members to be appointed by the Governor as  
15 follows:

16 (a) Three (3) members representative of privately owned educational institutions  
17 appointed from a list of seven (7) names submitted by the Kentucky  
18 Association of Career Colleges and Schools;

19 (b) Three (3) members representative of technical schools appointed from a list of  
20 seven (7) names submitted by the Kentucky Association of Career Colleges  
21 and Schools; and

22 (c) Five (5) members representative of the public at large.

23 (2) The term of each member shall be four (4) years or until a successor is appointed. If  
24 a vacancy occurs on the board, a new member shall be appointed to serve the  
25 remainder of the unexpired term.

26 (3) The director of the Division of Occupations and Professions in the Finance and  
27 Administration Cabinet shall serve as executive director of the board. Members of

1 the board shall annually elect one (1) of their number as chairman. The board may  
 2 make all rules and regulations, including the establishment of fees and other charges  
 3 consistent with the provisions of this chapter, as may be necessary to carry out the  
 4 provisions and purposes of this chapter.

5 (4) The board shall hold meetings at least four (4) times a year and as frequently as it  
 6 deems necessary at the times and places as the board may designate and the majority  
 7 of the members shall constitute a quorum.

8 (5) The board may sue and be sued in its own name.

9 (6) The members of the board shall receive one hundred dollars (\$100) per day for each  
 10 meeting attended and may be paid their travel and other expenses while employed  
 11 upon the business of the board.

12 (7) The board shall administer the provisions of law pertaining to the conduct,  
 13 operation, maintenance, and establishment of proprietary education institutions, and  
 14 the activities of agents thereof when acting as such.

15 (8) The board shall have the power to subpoena witnesses and school records as it  
 16 deems necessary.

17 Section 602. KRS 171.420 is amended to read as follows:

18 The State Archives and Records Commission, is hereby created and shall be a seventeen  
 19 (17) member body constituted as follows: The state librarian or his designee, who shall be  
 20 the chairman of the commission, secretary of the Education, Arts, and Humanities  
 21 Cabinet or his designee, the Auditor of Public Accounts or his designee, the Chief Justice  
 22 of the Supreme Court or his designee, the director of the Legislative Research  
 23 Commission or his designee, the Attorney General or his designee, the director of the  
 24 Office for Policy and Management in the Office of the Controller or his designee, the  
 25 executive director of the Commonwealth Office of Technology [chief information  
 26 officer] or her or his designee, one (1) member appointed by the Governor from a list of  
 27 three (3) persons submitted by the president of the University of Kentucky, one (1)



1 member appointed by the Governor from a list of three (3) persons submitted by the  
 2 president of the Kentucky Historical Society, one (1) member appointed by the Governor  
 3 from a list of three (3) persons submitted by the president of the Kentucky Library  
 4 Association, one (1) member appointed by the Governor from a list of seven (7) persons  
 5 with one (1) name submitted by each of the presidents of the state universities and  
 6 colleges, four (4) citizens at large, and one (1) member appointed by the Governor from a  
 7 list of three (3) persons, with one (1) name submitted by each of the presidents of the  
 8 Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky  
 9 Association of School Administrators. Vacancies shall be filled by the Governor in the  
 10 same manner as initial appointments are made. All members shall serve for a term of four  
 11 (4) years, provided that one (1) of the initial appointments shall be for a term of four (4)  
 12 years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year.  
 13 The commission shall advise the Department for Libraries and Archives on matters  
 14 relating to archives and records management. The commission shall have the authority to  
 15 review and approve schedules for retention and destruction of records submitted by state  
 16 and local agencies. In all cases, the commission shall determine questions which relate to  
 17 destruction of public records, and their decision shall be binding on the parties concerned  
 18 and final, except that the commission may reconsider or modify its actions upon the  
 19 agreement of a simple majority of the membership present and voting.

20 Section 603. KRS 175.810 is amended to read as follows:

21 The Transportation Cabinet shall certify to the commissioner~~secretary~~ of the  
 22 Department of Revenue~~Cabinet~~ by October 1 of each fiscal year the amount required  
 23 for lease rental payments to the Kentucky Turnpike Authority for economic development  
 24 road projects. Upon receiving such certification, the commissioner~~secretary~~ of the  
 25 Department of Revenue~~Cabinet~~ shall cause said amount to be deposited from road  
 26 fund receipts to the credit of the economic development road account, hereby created, in  
 27 the transportation fund (road fund). Such taxes collected in excess of the amount required

1 to be deposited to the economic development road account in the transportation fund  
2 (road fund) shall be deposited by the Department of Revenue~~[Cabinet]~~ to the credit of  
3 the transportation fund (road fund).

4 Section 604. KRS 179.720 is amended to read as follows:

- 5 (1) Upon the creation of a subdivision road district as provided in KRS 179.700 to  
6 179.735, the trustees of such district are hereby authorized to levy a tax rate upon  
7 the property in said district, provided that said property is subject to county tax, and  
8 not exceeding ten cents (\$0.10) per one hundred dollars (\$100) of valuation as  
9 assessed for county taxes, for the purpose of defraying the expenses of the  
10 maintenance of roads within the subdivision district. The rate set in this subsection  
11 shall apply, notwithstanding the provisions of KRS 132.023.
- 12 (2) The trustees of a district may contract with the county containing the district to  
13 perform maintenance on or to provide personnel, materials or equipment for  
14 maintenance to be performed upon any road in the district. The county may  
15 maintain or provide personnel, materials or equipment for the maintenance of the  
16 roads of a district, so long as the district agrees to pay the county's total cost of  
17 providing services, personnel, materials or equipment.
- 18 (3) The property valuation administrator of the county or counties involved, with the  
19 cooperation of the board of trustees, shall note on the tax rolls the taxpayers and  
20 valuation of the property subject to such assessment. The county clerk shall  
21 compute the tax on the regular state and county tax bills in such manner as may be  
22 directed by regulation of the Department of Revenue~~[Cabinet]~~.
- 23 (4) Such taxes shall be subject to the same delinquency date, discounts, penalties and  
24 interest as are applied to the collection of ad valorem taxes and shall be collected by  
25 the sheriff of the county or counties involved and accounted for to the treasurer of  
26 the district. The sheriff shall be entitled to a fee of four percent (4%) of the amount  
27 collected by him.

1       Section 605. KRS 186.025 is amended to read as follows:

2       Effective January 1, 1981, the Transportation Cabinet shall, by April 1 of each year,  
3       provide the Department of Revenue~~[-Cabinet]~~ with a listing of all owners of motor  
4       vehicles registered in Kentucky on an anniversary basis under KRS 186.051 as of the  
5       preceding January 1. ~~The[Such]~~ listing shall be by counties and shall contain, in addition  
6       to the name of the owners, the owners' addresses, and the make, model and year of all  
7       vehicles owned by the registrants. The county clerk shall continue to provide copies of  
8       motor vehicle registration certificates on all motor vehicles not registered under the  
9       provisions of KRS 186.051.

10       Section 606. KRS 186.232 is amended to read as follows:

11       (1) The county clerk shall not transfer the registration on any motor vehicle or trailer  
12       against which a tax lien has been filed until the taxes have been paid and the lien  
13       has been released.

14       (2) The county clerk shall not transfer the registration of any motor vehicle unless the  
15       transferee presents proof of insurance in compliance with KRS 304.39-080 and  
16       KRS 186.190.

17       (3) If a notarized affidavit is required and available under KRS 138.450, the county  
18       clerk shall not transfer the registration of a motor vehicle unless the notarized  
19       affidavit attesting to the total and actual consideration paid or to be paid for the  
20       motor vehicle is presented to the clerk at the time of the transfer. If a notarized  
21       affidavit is required but is not available, the county clerk shall contact the  
22       Department of Revenue~~[-Cabinet]~~ to determine the "retail price" of the vehicle and  
23       any taxes due prior to transferring the vehicle.

24       Section 607. KRS 186.655 is amended to read as follows:

25       (1) Before any owner or operator of a trailer, semitrailer, or recreational vehicle may  
26       operate upon the highways, the owner shall apply for registration to the county clerk  
27       of the county in which he resides or in which the vehicles are principally operated.

1 The application shall be retained by the clerk and shall be accompanied by:

- 2 (a) A manufacturer's certificate of origin, if the application is for the registration
- 3 of a new trailer, semitrailer, or recreational vehicle;
- 4 (b) The owner's registration receipt, if the trailer, semitrailer, or recreational
- 5 vehicle was last registered in this state;
- 6 (c) A bill of sale and the previous registration receipt, if last registered in another
- 7 state that does not require the owner of a trailer, semitrailer, or recreational
- 8 vehicle to obtain a certificate of title or ownership;
- 9 (d) A certificate of title, if last registered in another state that requires the owner
- 10 of a trailer, semitrailer, or recreational vehicle to obtain a certificate of title or
- 11 ownership;
- 12 (e) An affidavit from the owner of a trailer, semitrailer, or recreational vehicle
- 13 assembled or constructed for his personal use on the highways; or
- 14 (f) An affidavit from the owner of a trailer, semitrailer, or recreational vehicle
- 15 where the bill of sale for the vehicle has been lost, destroyed, or stolen.

16 (2) The affidavit required in paragraph (e) of subsection (1) of this section shall contain  
 17 the owner's name, address, date, brief description, and a statement that the trailer  
 18 was constructed by the owner for use on the highways and additional information  
 19 the cabinet may require by administrative regulation promulgated pursuant to KRS  
 20 Chapter 13A.

21 (3) The affidavit required in paragraph (f) of subsection (1) of this section shall contain  
 22 the owner's name, address, date, make, year made, serial or identification number,  
 23 name of the person from whom purchased, date of purchase, a statement that the  
 24 person making the affidavit is the sole owner, the circumstances under which the  
 25 bill of sale was lost, destroyed, or stolen, and additional information the cabinet  
 26 may require by administrative regulation promulgated pursuant to KRS Chapter  
 27 13A.

1 (4) After initial registration of his vehicles in this state, the owner shall register his  
 2 trailer, semitrailer, or recreational vehicle on or before April 1 of each year.  
 3 Registration with the clerk shall be deemed to be registration with the cabinet.

4 (5) A county clerk or other officer shall not issue license tags to the owner of a  
 5 recreational vehicle when it is offered for registration in this state, unless the owner  
 6 presents a tax receipt from the seller verifying that the Kentucky sales tax has been  
 7 paid. If the owner is unable to present evidence of payment of tax, he shall furnish  
 8 to the clerk a bill of sale indicating the purchase price of the recreational vehicle on  
 9 which price the sales tax shall be assessed. If he cannot furnish a bill of sale  
 10 indicating the purchase price, the clerk shall assess the value in accordance with  
 11 information prescribed by the Department of Revenue~~[Cabinet]~~. The clerk shall  
 12 collect the tax, deduct a fee of five percent (5%) of the amount collected and remit  
 13 the balance to the Department of Revenue~~[Cabinet]~~.

14 Section 608. KRS 186A.015 is amended to read as follows:

15 (1) Except as provided for in KRS 235.050, the titling and registration of motorboats as  
 16 defined in KRS 235.010 shall be administered through the automated motor vehicle  
 17 and trailer registration and titling system developed and implemented under the  
 18 provisions of KRS 186A.010.

19 (2) The Transportation Cabinet, the Natural Resources and Environmental Protection  
 20 Cabinet, the Department of Revenue~~[Cabinet]~~, and all other agencies of state  
 21 government affected by the system are hereby directed to cooperate in the orderly  
 22 implementation of this system.

23 (3) The Transportation Cabinet, as far as practicable, and not inconsistent with the  
 24 provisions of KRS Chapter 235, shall promulgate administrative regulations  
 25 requiring the procedures for boat titling and registration to be consistent with motor  
 26 vehicle titling and registration. These administrative regulations may pertain but  
 27 shall not be limited to the following:

- 1 (a) Conditions and characteristics of certificate of title forms;
- 2 (b) Comparison and identification of hull identification numbers;
- 3 (c) Application for title or registration;
- 4 (d) Processing of title applications;
- 5 (e) Form of certificate of title;
- 6 (f) Notation of security interests or title;
- 7 (g) Title lien statements;
- 8 (h) Transfer of boat ownership;
- 9 (i) Duplicate certificate of title or registration; and
- 10 (j) Salvage titles.

11 Section 609. KRS 186A.025 is amended to read as follows:

- 12 (1) (a) The Finance and Administration Cabinet shall have full responsibility and
- 13 authority for day-to-day administration of the automated system described by
- 14 this chapter; and
- 15 (b) May request the assistance of any cabinet or department of state government
- 16 in carrying out its responsibilities under this chapter.
- 17 (2) The Commonwealth Office of~~Governor's Office for~~ Technology shall assure, to
- 18 the extent feasible, twenty-four (24) hour, year-round information support to the
- 19 Department of State Police, and to other law enforcement agencies state and
- 20 nationwide, regarding vehicles registered and, when required, titled in this state.

21 Section 610. KRS 186A.030 is amended to read as follows:

22 In order to improve collection of personal property (ad valorem) taxes associated with

23 motor vehicles and trailers, the Department of Vehicle Regulation, in cooperation with

24 the Department of Revenue~~Cabinet~~, shall:

- 25 (1) Ensure that the automated system provided by this chapter is capable of properly
- 26 assigning a value for each vehicle registered in a county, utilizing a value reference
- 27 manual in machine readable form approved by the Department of Revenue

1        ~~Cabinet~~, and a manually entered value for vehicles not shown in such "manual."

2        (2) Promptly study the feasibility of computing personal property (ad valorem) taxes  
3        associated with motor vehicles or trailers, and producing tax bills or notices of taxes  
4        due in such regard, and if shown feasible to its satisfaction, implement such  
5        capability, or any part thereof, as expeditiously as practicable.

6        (3) Ensure that the automated system is capable of receiving the record of a lien for  
7        unpaid personal property (ad valorem) taxes associated with an owner of a motor  
8        vehicle or trailer. No motor vehicle dealer shall be responsible for the payment of a  
9        tax lien on a motor vehicle which is received as trade-in or otherwise obtained by  
10       the dealer.

11       Section 611. KRS 186A.040 is amended to read as follows:

12       (1) The Department of Vehicle Regulation shall provide and receive information on the  
13       insurance status of vehicles registered in the Commonwealth of Kentucky pursuant  
14       to KRS 304.39-087 and 304.39-085. The department shall provide appropriate  
15       insurance information to the Commonwealth Office of~~Governor's Office for~~  
16       Technology for inclusion in the AVIS database to assist in identifying uninsured  
17       motor vehicles.

18       (2) (a) Upon notification to the Department of Vehicle Regulation from an insurance  
19       company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-  
20       085, or on and after January 1, 2006, if the vehicle identification number  
21       (VIN) of a personal motor vehicle does not appear in the database created by  
22       KRS 304.39-087 for two (2) consecutive reporting months, the department  
23       shall immediately make a determination as to the notification of the insured.  
24       Notification to the insured shall state that the insured's policy is no longer  
25       valid and that the insured shall have thirty (30) days to show proof of  
26       insurance to the county clerk. The department shall further inform the insured  
27       that if evidence of insurance is not received within thirty (30) days the

1 department shall revoke the registration of the motor vehicle until:

- 2 1. The person presents proof of insurance to the county clerk and pays the  
3 reinstatement fee required by KRS 186.180;
- 4 2. The person presents proof in the form of an affidavit stating, under  
5 penalty of perjury as set forth in KRS 523.030, that the failure to  
6 maintain motor vehicle insurance on the vehicle specified in the  
7 department's notification is the result of the inoperable condition of the  
8 motor vehicle;
- 9 3. The person presents proof in the form of an affidavit stating, under  
10 penalty of perjury as set forth in KRS 523.030, that the failure to  
11 maintain motor vehicle insurance on the vehicle specified in the  
12 department's notification is the result of the seasonal nature of the  
13 vehicle. The affidavit shall explain that when the vehicle is out of  
14 dormancy and when the seasonal use of the vehicle is resumed, the  
15 proper security will be obtained; or
- 16 4. The person presents proof in the form of an affidavit stating, under  
17 penalty of perjury as set forth in KRS 523.030, that he or she requires a  
18 registered motor vehicle in order to carry out his or her employment and  
19 that the motor vehicle that he or she drives during the course of his or  
20 her employment meets the security requirement of subtitle 39 of KRS  
21 Chapter 304. The person shall also declare in the affidavit that he or she  
22 will operate a motor vehicle only in the course of his or her employment.  
23 If a person has his or her motor vehicle registration revoked in  
24 accordance with this subsection three (3) times within any twelve (12)  
25 month period, the revocations shall constitute a violation of KRS  
26 304.39-080. The department shall notify the county attorney to begin  
27 prosecution for violation of subtitle 39 of KRS Chapter 304.



1 (b) The Department of Vehicle Regulation shall be responsible for notification to  
2 the appropriate county attorney that a motor vehicle is not properly insured, if  
3 the insured does not respond to notification set out by paragraph (a) of this  
4 subsection. The notice that the department gives to the county attorney in  
5 accordance with paragraph (a) of this subsection shall include a certified copy  
6 of the person's driving record which shall include:

7 1. The notice that the department received from an insurance company that  
8 a person's motor vehicle insurance policy has been canceled or has  
9 not been renewed; and

10 2. A dated notice that the department sent to the person requiring the  
11 person to present proof of insurance to the county clerk.

12 Upon notification by the department, a county attorney shall immediately  
13 begin prosecution of the person who had his or her motor vehicle registration  
14 revoked three (3) times within any twelve (12) month period in accordance  
15 with paragraph (a) of this subsection.

16 (c) The certified copies sent by the department described in paragraph (b) of this  
17 subsection, shall be prima facie evidence of a violation of KRS 304.39-080.

18 (d) If the insured provides proof of insurance to the clerk within the thirty (30)  
19 day notification period, the department shall ensure action is taken to denote a  
20 valid insurance policy is in force.

21 (3) (a) In developing the mechanism to electronically transfer information pursuant to  
22 KRS 304.39-087, the commissioner of the Department of Vehicle Regulation  
23 shall consult with the commissioner of the Department of Insurance and  
24 insurers of personal motor vehicles to adopt a standardized system of  
25 organizing, recording, and transferring the information so as to minimize  
26 insurer administrative expenses. The commissioner shall to the maximum  
27 extent possible utilize nationally recognized electronic data information

1 systems such as those developed by the American National Standards Institute  
2 or the American Association of Motor Vehicle Administrators.

3 (b) Notwithstanding any other provision of law, information obtained by the  
4 department pursuant to KRS 304.39-087 shall not be subject to the Kentucky  
5 Open Records Act, KRS 61.872 to 61.884, and shall not be disclosed, used,  
6 sold, accessed, utilized in any manner, or released by the department to any  
7 person, corporation, or state and local agency, except in response to a specific  
8 individual request for the information authorized pursuant to the federal  
9 Driver's Privacy Protection Act, 18 U.S.C. secs. 2721 et seq. The department  
10 shall institute measures to ensure that only authorized persons are permitted to  
11 access the information for the purposes specified by this section. Persons who  
12 knowingly release or disclose information from the database created by KRS  
13 304.39-087 for a purpose other than those described as authorized by this  
14 section or to a person not entitled to receive it shall be guilty of a Class A  
15 misdemeanor for each release or disclosure.

16 Section 612. KRS 186A.060 is amended to read as follows:

17 The Department of Vehicle Regulation is directed to develop, in cooperation with county  
18 clerks, auto dealers, and the Department of Revenue~~[-Cabinet]~~, and Departments of  
19 Insurance and State Police, the forms required to record all information pertinent to the  
20 initial registration, or titling and taxation, or transfer of registration or title of a vehicle.  
21 The Department of Vehicle Regulation shall make every effort to minimize and reduce  
22 the amount of paperwork required to apply for, or transfer, a vehicle title. When possible,  
23 the title document itself shall be used as the primary form used to effect a transfer of  
24 vehicle ownership. When no in-state title exists, then forms shall be designed by the  
25 department that require only the appropriate and essential information to effect the  
26 application for title. The department shall constantly review the information needs of  
27 government agencies and other organizations with the goal of reducing, or eliminating,

1 unnecessary documentation. Information being sought for application for title relevant to,  
2 but not limited to, vehicle identification, owner, buyer, usage tax, county clerk or  
3 inspector shall be set forth by the cabinet in such a way as to promote flexibility in  
4 reaching this goal, except that an applicant for a motor vehicle title shall not be required  
5 to provide his or her social security number as part of the application process. The use of  
6 an electronic medium shall be employed so that forms can be printed by the automated  
7 system. Existing statutory language in this chapter and KRS Chapter 186 pertaining to  
8 application, signature, forms, or application transfer record may be construed to be  
9 electronic in nature at the discretion of the cabinet as provided for by administrative  
10 regulation. Any person who knowingly enters, or attests to the entry of, false or erroneous  
11 information in pursuit of a certificate of title shall be guilty of forgery in the second  
12 degree.

13 Section 613. KRS 186A.285 is amended to read as follows:

14 (1) No person shall, without prior specific written approval of the commissioner of the  
15 Department of Vehicle Regulation and the executive director of the  
16 Commonwealth Office of Technology~~[chief information officer]~~, connect with the  
17 automated vehicle registration and titling system, directly or indirectly, by wire,  
18 electronic, electromagnetic induction, systemic, or any other means, any device,  
19 system or apparatus capable of putting information or electronic signals into, or  
20 receiving information or electronic signals from, or blocking, diverting, or altering  
21 transmission of data or signals within, the automated vehicle registration and titling  
22 system, its components, and its communications network.

23 (2) This section does not apply to or prohibit connection of devices or systems to the  
24 automated vehicle registration and titling system by persons who are acting in  
25 accordance with a contract or agreement with the Commonwealth of Kentucky,  
26 which in addition to any other required approval, has been approved in writing by  
27 the commissioner of the Department of Vehicle Regulation and the executive

1 *director of the Commonwealth Office of Technology*~~[chief information officer]~~.

2 Section 614. KRS 186A.290 is amended to read as follows:

- 3 (1) Regardless of other provisions of the statutes, the county clerk may omit sending  
 4 duplicates of each certificate of title and registration, or certificate of registration he  
 5 issues, to the Transportation Cabinet and *Department of Revenue*~~[Cabinet]~~, and  
 6 the property valuation administrator, and may omit the production and filing of one  
 7 of the copies formerly known as either county clerk's alpha or his numeric copy,  
 8 when it is determined by the agencies indicated that their need for "duplicates" of  
 9 each certificate or "receipt" is obviated by the automated system.
- 10 (2) The Department of Vehicle Regulation and the *Department of Revenue*~~[Cabinet]~~  
 11 shall, as agreed between them, provide appropriate system support or computerized  
 12 listings on magnetic tape or disc, printouts, or system access, to fulfill the  
 13 information needs formerly requiring duplicates of each certificate or receipt.

14 Section 615. KRS 186A.295 is amended to read as follows:

- 15 (1) (a) Any person or entity having a motor vehicle or trailer that has been destroyed,  
 16 to the extent that its repair cannot be obtained through usual commercial  
 17 repair services, at a cost less than its retail value as established from a value  
 18 manual approved by the *Department of Revenue*~~[Cabinet]~~, or from which  
 19 two (2) or more parts which typically bear a vehicle identification number  
 20 placed thereon by the manufacturer have been removed, or which he removes,  
 21 shall surrender the certificate of title for such vehicle for which he has a  
 22 certificate of title in his or another name, to the county clerk of the county in  
 23 which such vehicle is located. The clerk shall immediately forward the  
 24 surrendered title to Frankfort with instructions for canceling the title.
- 25 (b) Any person or entity engaged in the sale of used motor vehicle or trailer parts,  
 26 or the recycling or salvage of them, shall surrender the certificate of title for  
 27 any vehicle in his possession, and for which he has a certificate of title,

whether in his or another name, if such vehicle is destroyed within the meaning of paragraph (a) of this subsection, or from which two (2) or more parts which typically bear a vehicle identification number placed thereon by a manufacturer have been removed, or which he removes, to the county clerk of the county in which such vehicle is located. The clerk shall immediately forward the surrendered title to Frankfort with instructions for canceling the title.

(c) The surrender of the certificate of title pursuant to this section shall be made within ten (10) working days, next succeeding the day when such vehicle was received, destroyed, or next succeeding the day during which such second part was removed.

(2) Each county clerk shall receive without charge, a certificate surrendered in accordance with this section, cancel it, and remit it to the Department of Vehicle Regulation, and take any other action related to it, as required by the Department of Vehicle Regulation.

Section 616. KRS 190.040 is amended to read as follows:

(1) A license may be denied, suspended, or revoked on the following grounds:

- (a) Proof of financial or moral unfitness of applicant;
- (b) Material misstatement in application for license;
- (c) Filing a materially false or fraudulent tax return as certified by the Department of Revenue~~[Cabinet]~~;
- (d) Willful failure to comply with any provision of this chapter or any administrative regulation promulgated under this chapter;
- (e) Willfully defrauding any retail buyer to the buyer's damage;
- (f) Willful failure to perform any written agreement with any buyer;
- (g) Failure or refusal to furnish and keep in force any bond required;
- (h) Having made a fraudulent sale, transaction, or repossession;

- 1 (i) False or misleading advertising;
- 2 (j) Fraudulent misrepresentation, circumvention, or concealment through  
3 subterfuge or device of any of the material particulars or the nature of them  
4 required to be stated or furnished to the retail buyer;
- 5 (k) Employment of fraudulent devices, methods, or practices in connection with  
6 compliance with the requirements under the statutes of this state with respect  
7 to the retaking of goods under retail installment contracts and the redemption  
8 and resale of goods;
- 9 (l) Having violated any law relating to the sale, distribution, or financing of  
10 motor vehicles;
- 11 (m) Being a manufacturer of motor vehicles, factory branch, distributor, field  
12 representative, officer, agent, or any representative of the motor vehicle  
13 manufacturer or factory branch, who has induced, coerced, or attempted to  
14 induce or coerce any automobile dealer to accept delivery of any motor  
15 vehicle, vehicles, parts, accessories, or any other commodities that shall not  
16 have been ordered by the dealer;
- 17 (n) Being a manufacturer of motor vehicles, factory branch, distributor, field  
18 representative, officer, agent, or any representative of a motor vehicle  
19 manufacturer or factory branch, who has attempted to induce or coerce, or has  
20 induced or coerced, any automobile dealer to enter into any agreement with a  
21 manufacturer, factory branch, or representative, or to do any other act unfair to  
22 the dealer, by threatening to cancel any franchise existing between a  
23 manufacturer, factory branch, or representative and the dealer;
- 24 (o) Being a manufacturer, factory branch, distributor, field representative, officer,  
25 agent, or any representative of a motor vehicle manufacturer or factory branch,  
26 who has unfairly, without due regard to the equities of the dealer and without  
27 just provocation, canceled the franchise of any motor vehicle dealer. The

1 nonrenewal of a franchise or selling agreement without just provocation or  
2 cause shall be deemed an evasion of this section and shall constitute an unfair  
3 cancellation;

4 (p) Being a manufacturer, factory branch, distributor, field representative, officer,  
5 agent, or any representative of a motor vehicle manufacturer or factory branch,  
6 or wholesaler who makes, attempts to make, or aids or abets the making of a  
7 sale of a motor vehicle to a person other than a licensed motor vehicle dealer.

8 This section shall not prevent any manufacturer from offering discounts or  
9 rebates on any motor vehicle to any of its employees; or

10 (q) Being a dealer who advertises for sale a new motor vehicle unless he is a  
11 dealer operating under a franchise with a licensed manufacturer, factory  
12 branch, or distributor authorizing the sale of the new motor vehicle being  
13 advertised.

14 (2) The licensor may deny the application for a license within thirty (30) days after  
15 receipt thereof by written notice to the applicant, stating the grounds for denial.  
16 Upon request by the applicant whose license has been denied, the licensor shall set  
17 the time and place of hearing a review of denial, to be conducted in accordance with  
18 KRS Chapter 13B.

19 (3) A license shall not be suspended or revoked except after a hearing conducted in  
20 accordance with KRS Chapter 13B.

21 (4) The commission may inspect the pertinent books, letters, records, and contracts of a  
22 licensee.

23 (5) If a licensee is a firm or corporation, it shall be sufficient cause for the denial,  
24 suspension, or revocation of a license that any officer, director, or trustee of the firm  
25 or corporation, or any member in case of a partnership, has been guilty of any act or  
26 omission which would be cause for refusing, suspending, or revoking a license to  
27 the party as an individual. Each licensee shall be responsible for the acts of any or

1 all of his salesmen while acting as his agent, if the licensee approved of or had  
 2 knowledge of the acts and after approval or knowledge retained the benefit,  
 3 proceeds, profits, or advantages accruing from the acts.

- 4 (6) Any licensee or other person in interest who is dissatisfied with a final order of the  
 5 commission may appeal to the Franklin Circuit Court and to the Court of Appeals in  
 6 the manner provided by KRS Chapter 13B.

7 Section 617. KRS 194B.102 is amended to read as follows:

- 8 (1) There is hereby created the "Statewide Strategic Planning Committee for Children  
 9 in Placement" which is administratively attached to the Department for Community  
 10 Based Services. The committee shall be composed of the following:

11 (a) Members who shall serve by virtue of their positions: the secretary of the  
 12 Cabinet for Families and Children or the secretary's designee, the  
 13 commissioner of the Department for Public Health, the commissioner of the  
 14 Department for Mental Health and Mental Retardation Services, the  
 15 commissioner for the Department for Medicaid Services, the commissioner of  
 16 the Department for Community Based Services, the commissioner of the  
 17 Department of Juvenile Justice, the commissioner of the Department of  
 18 Education, the executive director of the Administrative Office of the Courts,  
 19 or their designees; and

20 (b) One (1) foster parent selected by the statewide organization for foster parents,  
 21 one (1) District Judge selected by the Chief Justice of the Kentucky Supreme  
 22 Court, one (1) parent of a child in placement at the time of appointment to be  
 23 selected by the secretary of the Cabinet for Families and Children, one (1)  
 24 youth in placement at the time of the appointment to be selected by the  
 25 secretary of the Cabinet for Families and Children, and one (1) private child  
 26 care provider selected by the statewide organization for private child care  
 27 providers. These members shall serve a term of two (2) years, and may be



1 reappointed.

2 (2) The Statewide Strategic Planning Committee for Children in Placement shall, by  
3 July 1, 1999, develop a statewide strategic plan for the coordination and delivery of  
4 care and services to children in placement and their families. The plan shall be  
5 submitted to the Governor, the Chief Justice of the Supreme Court, and the  
6 Legislative Research Commission on or before July 1, 1999, and each July 1  
7 thereafter.

8 (3) The strategic plan shall, at a minimum, include:

- 9 (a) A mission statement;
- 10 (b) Measurable goals;
- 11 (c) Principles;
- 12 (d) Strategies and objectives; and
- 13 (e) Benchmarks.

14 (4) The planning horizon shall be three (3) years. The plan shall be updated on an  
15 annual basis. Strategic plan updates shall include data and statistical information  
16 comparing plan benchmarks to actual services and care provided.

17 (5) The Statewide Strategic Planning Committee for Children in Placement shall, in  
18 consultation with the commissioner and the statewide placement coordinator as  
19 provided for in KRS 199.801, establish a statewide facilities and services plan that  
20 identifies the location of existing facilities and services for children in placement,  
21 identifies unmet needs, and develops strategies to meet the needs. The planning  
22 horizon shall be five (5) years. The plan shall be updated on an annual basis. The  
23 plan shall be used to guide, direct, and, if necessary, restrict the development of new  
24 facilities and services, the expansion of existing facilities and services, and the  
25 geographic location of placement alternatives.

26 (6) The Statewide Strategic Planning Committee for Children in Placement may,  
27 through the promulgation of administrative regulations, establish a process that

1 results in the review and approval or denial of the development of new facilities and  
 2 services, the expansion of existing facilities and services, and the geographic  
 3 location of any facilities and services for children in placement in accordance with  
 4 the statewide facilities and services plan. Any process established shall include  
 5 adequate due process rights for individuals and entities seeking to develop new  
 6 services, construct new facilities, or expand existing facilities, and shall require the  
 7 involvement of local communities and other resource providers in those  
 8 communities.

9 (7) As a part of the statewide strategic plan, and in consultation with the  
 10 Commonwealth Office of~~Governor's Office for~~ Technology, the Statewide  
 11 Strategic Planning Committee for Children in Placement shall plan for the  
 12 development or integration of information systems that will allow information to be  
 13 shared across agencies and entities, so that relevant data will follow a child through  
 14 the system regardless of the entity or agency that is responsible for the child. The  
 15 data produced shall be used to establish and monitor the benchmarks required by  
 16 subsection (3) of this section. The data system shall, at a minimum, produce the  
 17 following information on a monthly basis:

- 18 (a) Number of placements per child;
- 19 (b) Reasons for placement disruptions;
- 20 (c) Length of time between removal and establishment of permanency;
- 21 (d) Reabuse or reoffense rates;
- 22 (e) Fatality rates;
- 23 (f) Injury and hospitalization rates;
- 24 (g) Health care provision rates;
- 25 (h) Educational achievement rates;
- 26 (i) Multiple placement rates;
- 27 (j) Sibling placement rates;

1 (k) Ethnicity matching rates;

2 (l) Family maintenance and preservation rate; and

3 (m) Adoption disruption rates.

4 (8) The Statewide Strategic Planning Committee for Children in Placement shall  
5 publish an annual report no later than December 1 of each year that includes, but is  
6 not limited to, the information outlined in subsection (7) of this section.

7 Section 618. KRS 197.120 is amended to read as follows:

8 (1) The Department of Corrections may enter into contracts with any other state agency  
9 for the use and employment of prisoners who may be eligible for the assignments.  
10 The contracts shall specifically set forth the compensation to be paid to the  
11 Department of Corrections for the use and employment of the prisoners, for the  
12 payment of the expenses of transporting, guarding, housing, disciplining, and  
13 maintaining the prisoners while so employed. The amount to be paid shall be  
14 certified by the contracting parties to the Finance and Administration Cabinet at the  
15 end of each month and shall be charged to the appropriation of the agency liable for  
16 the payment thereof and credited to the budget of the department to be disbursed  
17 and expended as it directs. Any contract may provide for a fixed per diem  
18 compensation to be paid to the department for each day's work performed by the  
19 prisoner and the department shall pay, out of the per diem compensation, the  
20 expenses of transporting, guarding, disciplining, housing, and maintaining prisoners  
21 as may be provided in the contracts.

22 (2) The Department of Corrections shall not enter into any contract with the  
23 Department of Revenue~~[- Cabinet]~~ for the use or employment of prisoners in any  
24 capacity that allows prisoners access to taxpayer information, including, but not  
25 limited to, tax returns, informational reporting returns, social security numbers,  
26 telephone numbers, or addresses.

27 Section 619. KRS 197.210 is amended to read as follows:

- 1 (1) (a) On and after June 17, 1954, all offices, departments, institutions, agencies,  
 2 and all political subdivisions which are supported in whole or in part by the  
 3 Commonwealth shall purchase, when economically feasible, from the  
 4 department all articles or products required which are produced or  
 5 manufactured by prison labor, as provided by KRS 197.200 to 197.250. No  
 6 article or product shall be purchased by any office, department, institution, or  
 7 agency, from any source except as specified in this subsection.
- 8 (b) Exceptions may be made in any case where, in the opinion of the Finance and  
 9 Administration Cabinet, the articles or products produced or manufactured do  
 10 not meet the reasonable requirements of the offices, departments, institutions,  
 11 agencies, or where the requisition cannot be reasonably complied with  
 12 because of an insufficient supply of the articles or products required.  
 13 However, no office, department, institution, or agency shall be allowed to  
 14 evade the intent and meaning of KRS 197.200 to 197.250 by slight variations  
 15 from standards adopted by the Office~~[Division]~~ of Material and Procurement  
 16 Services within the Office of the Controller, when the articles or products  
 17 produced or manufactured by the department in accordance with the  
 18 standards, are reasonably adapted to the actual needs of the office, department,  
 19 institution, or agency.
- 20 (2) All purchases under KRS 197.200 to 197.250 shall be made through the Finance  
 21 and Administration Cabinet upon requisition by the proper authority of the office,  
 22 department, institution, agency, or political subdivision of the Commonwealth.
- 23 Section 620. KRS 198A.030 is amended to read as follows:
- 24 (1) There is hereby created and established an independent, de jure municipal  
 25 corporation and political subdivision of the Commonwealth which shall be a public  
 26 body corporate and politic to be known as the Kentucky Housing Corporation.
- 27 (2) The Kentucky Housing Corporation is created and established as a de jure

1       municipal corporation and political subdivision of the Commonwealth to perform  
 2       essential governmental and public functions and purposes in improving and  
 3       otherwise promoting the health and general welfare of the people by the production  
 4       of residential housing in Kentucky.

5       (3) The corporation shall be governed by a board of directors, consisting of thirteen  
 6       (13)~~{fourteen (14)}~~ members, five (5)~~{six (6)}~~ of whom shall be the Lieutenant  
 7       Governor, the secretary of the Finance and Administration Cabinet, the  
 8       commissioner of the Department for Local Government,~~[the secretary of the~~  
 9       ~~Revenue Cabinet,]~~ the Attorney General, and the secretary of the Cabinet for  
 10       Economic Development, or their duly appointed designees, as public directors, and  
 11       eight (8) private directors who shall be appointed by the Governor, subject to  
 12       confirmation by the Senate as provided by KRS 11.160, as follows:

- 13       (a) One (1) private director representing the interests of financial lending  
 14           institutions located within the Commonwealth;
- 15       (b) One (1) private director representing the interests of the manufactured housing  
 16           industry within the Commonwealth;
- 17       (c) One (1) private director representing the interests of real estate practitioners  
 18           licensed by the Kentucky Real Estate Commission;
- 19       (d) One (1) private director representing the interests of the homeless population  
 20           within the Commonwealth;
- 21       (e) One (1) private director representing the interests of local government;
- 22       (f) One (1) private director representing the interests of the home construction  
 23           industry in the Commonwealth;
- 24       (g) One (1) private director representing the interests of consumers in the  
 25           Commonwealth; and
- 26       (h) One (1) private director representing the interests of the Kentucky State  
 27           Building Trades Council.

- 1 (4) Private directors appointed by the Governor may include previous members of the  
2 board, and members may be reappointed for successive terms. All appointments  
3 shall be for four (4) years, and the appointees shall serve until a qualified successor  
4 is appointed.
- 5 (5) In case of a vacancy, the Governor may appoint a person for the vacancy to hold  
6 office during the remainder of the term. A vacancy shall be filled in accordance  
7 with the requirement and procedures for appointments.
- 8 (6) The Governor may remove any private director whom he may appoint in case of  
9 incompetency, neglect of duty, gross immorality, or malfeasance in office; and he  
10 may declare his office vacant and may appoint a person for the vacancy as provided  
11 in this section.
- 12 (7) The Governor shall designate a director of the corporation to serve as chairman. The  
13 term of the chairman shall extend to the earlier of either the date of expiration of his  
14 then current term as a director of the corporation or a date six (6) months after the  
15 expiration of the then current term of the Governor designating the chairman.
- 16 (8) The board of directors shall annually elect one (1) of its members as vice chairman.  
17 The board of directors shall also elect or appoint, and prescribe the duties of, other  
18 officers the board of directors deems necessary or advisable, including an executive  
19 director and a secretary, and the board of directors shall fix the compensation of the  
20 officers.
- 21 (9) The executive director shall administer, manage, and direct the affairs and business  
22 of the corporation, subject to the policies, control, and direction of the board of  
23 directors of the corporation. The secretary of the corporation shall keep a record of  
24 the proceedings of the corporation and shall be custodian of all books, documents,  
25 and papers filed with the corporation, the minute book or journal of the corporation,  
26 and its official seal. The secretary shall have authority to cause copies to be made of  
27 all minutes and other records and documents of the corporation and to give

1 certificates under the official seal of the corporation to the effect that copies are true  
2 copies, and all persons dealing with the corporation may rely upon the certificates.

3 (10) A majority of the board of directors of the corporation shall constitute a quorum for  
4 the purposes of conducting its business and exercising its powers and for all other  
5 purposes. A majority shall be determined by excluding any existing vacancies from  
6 the total number of directors.

7 (11) Action shall be taken by the corporation upon a vote of a majority of the directors  
8 present at a meeting at which a quorum shall exist called upon three (3) days'  
9 written notice to each director or upon the concurrence of at least eight (8) directors.

10 (12) Each private director shall be entitled to a fee of one hundred dollars (\$100) for  
11 attendance at each meeting of the board of directors or duly called committee  
12 meeting of the board.

13 Section 621. KRS 205.769 is amended to read as follows:

14 (1) In cases deemed appropriate pursuant to established guidelines, the cabinet shall  
15 refer for federal income tax refund offset and state income tax refund offset verified  
16 amounts which are owed for overdue child support and maintenance amounts that  
17 are included in the same support order as child support. The cabinet shall refer for  
18 federal income tax refund offset and state income tax refund offset verified amounts  
19 which are owed for medical support, when the medical support arrearage accrued is  
20 based on a medical support order for a specified dollar amount.

21 (2) In nonpublic assistance cases, the custodial parent shall be notified in advance if any  
22 offset amount will be first used to satisfy any unreimbursed public assistance  
23 payments which have been provided to the family.

24 (3) Written notice in advance shall be provided the obligor of the referral for state  
25 income tax refund offset, together with the opportunity to contest the referral  
26 pursuant to procedures which are in compliance with the state's procedural due  
27 process requirements.

1 (4) If the offset amount is found to be in error or to exceed the amount of overdue  
 2 support, the cabinet shall promptly refund the excess amount pursuant to established  
 3 procedures.

4 (5) The cabinet may charge a reasonable fee to cover the cost of collecting overdue  
 5 support using the state tax refund offset.

6 (6) The Department of Revenue~~[Cabinet]~~ shall notify the cabinet of the parent's home  
 7 address and Social Security number or numbers. The cabinet shall provide this  
 8 information to any other state involved in enforcing the support order.

9 (7) The cabinet has the unfettered right to intercept federal income tax refunds and state  
 10 income tax refunds, pursuant to 45 C.F.R. 303.72 and KRS 131.560 to 131.595, to  
 11 satisfy all child support, maintenance, and medical support arrearages due the  
 12 cabinet or its assignee.

13 Section 622. KRS 205.7695 is amended to read as follows:

14 The Cabinet for Families and Children and the Department of Revenue~~[Cabinet]~~ shall  
 15 work together to develop a system of information sharing for the effective and efficient  
 16 collection of child support payments. Any requirement included in KRS Chapter 131,  
 17 205, 403, or 405 or any other law for either the cabinet or the department for the  
 18 confidentiality of individual personal and financial records shall not be violated in the  
 19 process of this coordination.

20 Section 623. KRS 205.778 is amended to read as follows:

21 (1) When the cabinet determines that the name, record address, and either Social  
 22 Security number or taxpayer identification number of an account with a financial  
 23 institution matches the name, record address, and either the Social Security number  
 24 or taxpayer identification number of a noncustodial parent who owes past-due  
 25 support, a lien or levy shall, subject to the provision of subsection (3) of this  
 26 section, arise against the assets in the account at the time of receipt of the notice by  
 27 the financial institution at which the account is maintained. The cabinet shall



1 provide a notice of the match, the lien or levy arising therefrom, and the action to be  
 2 taken to block or encumber the account with the lien or levy for child support  
 3 payment to the individual identified and the financial institution holding the  
 4 account. The financial institution shall have no obligation to hold, encumber, or  
 5 surrender assets in any account based on a match until it is served with a notice of  
 6 lien or order to withhold and deliver.

7 (2) The cabinet shall provide notice to the individual subject to a child support lien or  
 8 levy on assets in an account held by a financial institution by sending them a notice  
 9 of the lien or levy to withhold and deliver within two (2) business days of the date  
 10 that notice is sent to the financial institution.

11 (3) A financial institution ordered to block or encumber an account shall be entitled to  
 12 collect its normally scheduled account activity fees to maintain the account during  
 13 the period of time the account is blocked or encumbered.

14 (4) Any levy issued on an identified account by the Cabinet for Families and Children  
 15 for past-due child support shall have first priority over any other lien or levy issued  
 16 by the Department of Revenue~~[-Cabinet]~~ or any other agency, corporation, or  
 17 association.

18 Section 624. KRS 209.160 is amended to read as follows:

19 There is hereby created a trust and agency account in the State Treasury to be known as  
 20 the spouse abuse shelter fund. Each county clerk shall remit to the fund, by the tenth of  
 21 the month, ten dollars (\$10) from each twenty-four dollars (\$24) collected during the  
 22 previous month from the issuance of marriage licenses. The fund shall be administered by  
 23 the Department of Revenue~~[-Cabinet]~~. The Cabinet for Families and Children shall use  
 24 the funds for the purpose of providing protective shelter services for spouse abuse  
 25 victims.

26 Section 625. KRS 211.390 is amended to read as follows:

27 (1) "Fluidized bed energy production facility" shall mean a fluidized bed combustion

1 unit, installed in a plant facility located in this state, which is fueled by Kentucky  
2 coal and which employs fluidized bed combustion technology, installed on or after  
3 August 1, 1986, to burn said coal for the purpose of producing thermal, mechanical  
4 or electrical energy. The energy produced through the employment of the fluidized  
5 bed combustion technology must constitute the major energy source for the primary  
6 operations of the plant facility.

- 7 (2) "Fluidized bed combustion technology tax exemption certificate" shall mean that  
8 certificate issued by the Department of Revenue~~[-Cabinet]~~ pursuant to KRS  
9 211.392.

10 Section 626. KRS 211.392 is amended to read as follows:

- 11 (1) Application for a fluidized bed combustion technology tax exemption certificate  
12 shall be filed with the Department of Revenue~~[-Cabinet]~~ in the manner and form  
13 prescribed by the Department of Revenue~~[-Cabinet]~~ and shall contain plans and  
14 specifications of the fluidized bed combustion unit including all materials  
15 incorporated and to be incorporated therein and a descriptive list of all equipment  
16 acquired or to be acquired by the applicant for the purpose of installing a fluidized  
17 bed combustion unit to reduce the sulfur emissions from coal combustion and any  
18 additional information deemed useful by the Department of Revenue~~[-Cabinet]~~ for  
19 the proper administration of this section. If the Department of Revenue~~[-Cabinet]~~  
20 finds that the facility qualifies as a fluidized bed energy production facility, it shall  
21 enter a finding and issue a certificate to that effect. The effective date of the  
22 certificate shall be the date of issuance of the certificate.

- 23 (2) Before the denial, revocation, or modification of a fluidized bed combustion  
24 technology tax exemption certificate, the Department of Revenue~~[-Cabinet]~~ shall  
25 give the applicant written notice and shall afford the applicant an opportunity for a  
26 conference. The conference shall take place within sixty (60) days following  
27 notification. The Department of Revenue~~[-Cabinet]~~ shall on its own initiative

1       revoke the certificate when any of the following appears:

- 2       (a)   The certificate was obtained by fraud or misrepresentation;
- 3       (b)   The holder of the certificate has failed substantially to proceed with the
- 4             construction, reconstruction, installation, or acquisition of the fluidized bed
- 5             combustion unit; or
- 6       (c)   The fluidized combustion unit to which the certificate relates has ceased to be
- 7             the major energy source for the primary operations of the plant facility.
- 8   (3)   If the circumstances so require, the Department of Revenue~~[-Cabinet]~~, in lieu of
- 9       revoking the certificate, may modify it.
- 10   (4)   On mailing of notice of the action of the Department of Revenue~~[-Cabinet]~~
- 11       revoking or modifying a certificate as provided in subsection (5) of this section, the
- 12       certificate shall cease to be in force or shall remain in force only as modified as the
- 13       case may require.
- 14   (5)   A fluidized bed combustion technology tax exemption certificate, when issued,
- 15       shall be sent by certified mail to the applicant. Notice of an order of the Department
- 16       of Revenue~~[-Cabinet]~~ denying, revoking, or modifying a certificate in the form of
- 17       certified copies shall be sent by certified mail to the applicant or the holder.
- 18   (6)   The applicant or holder of the certificate aggrieved by the refusal to issue,
- 19       revocation, or modification of a fluidized bed combustion technology tax exemption
- 20       certificate may appeal from the final ruling of the Department of Revenue~~[-Cabinet]~~
- 21       to the Kentucky Board of Tax Appeals as provided in KRS 131.340.
- 22   (7)   In the event of the sale, lease, or other transfer of a fluidized bed combustion unit,
- 23       not involving a different location or use, the holder of the fluidized bed construction
- 24       technology tax exemption certificate for the facility may transfer the certificate by
- 25       written instrument to the person who, except for the transfer of the certificate,
- 26       would be obligated to pay taxes on the facilities. The transferee shall become the
- 27       holder of the certificate and shall have all rights pertaining thereto, effective as the

1 date of transfer, together with a copy of the instrument of transfer to the  
2 Department of Revenue~~[Cabinet]~~.

3 (8) In the event a fluidized bed combustion unit for which an exemption certificate is  
4 held ceases to be used for the purpose of generating energy or is used for a purpose  
5 other than that for which the exemption certificate was granted, the holder of the  
6 certificate shall give written notice by certified mail of such change to the  
7 Department of Revenue~~[Cabinet]~~.

8 (9) The fluidized bed combustion technology tax exemption certificate, upon approval,  
9 shall exempt the facilities from taxes outlined in the provision of this section and  
10 KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in  
11 force for a period of eight (8) years from the date of issuance and at the end of said  
12 period shall lapse. Any fluidized bed combustion unit previously exempt under the  
13 terms of this section shall not be eligible for recertification upon completion of the  
14 eight (8) year certificate period.

15 Section 627. KRS 218A.202 is amended to read as follows:

16 (1) The Cabinet for Health Services shall establish an electronic system for monitoring  
17 Schedules II, III, IV, and V controlled substances that are dispensed within the  
18 Commonwealth by a practitioner or pharmacist or dispensed to an address within  
19 the Commonwealth by a pharmacy that has obtained a license, permit, or other  
20 authorization to operate from the Kentucky Board of Pharmacy.

21 (2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically  
22 dedicated to the operation of the system.

23 (3) Every dispenser within the Commonwealth or any other dispenser who has obtained  
24 a license, permit, or other authorization to operate from the Kentucky Board of  
25 Pharmacy shall report to the Cabinet for Health Services the data required by this  
26 section in a timely manner as prescribed by the cabinet except that reporting shall  
27 not be required for:

- 1 (a) A drug administered directly to a patient; or
- 2 (b) A drug dispensed by a practitioner at a facility licensed by the cabinet
- 3 provided that the quantity dispensed is limited to an amount adequate to treat
- 4 the patient for a maximum of forty-eight (48) hours.
- 5 (4) Data for each controlled substance that is dispensed shall include but not be limited
- 6 to the following:
- 7 (a) Patient identifier;
- 8 (b) Drug dispensed;
- 9 (c) Date of dispensing;
- 10 (d) Quantity dispensed;
- 11 (e) Prescriber; and
- 12 (f) Dispenser.
- 13 (5) The data shall be provided in the electronic format specified by the Cabinet for
- 14 Health Services unless a waiver has been granted by the cabinet to an individual
- 15 dispenser. The cabinet shall establish acceptable error tolerance rates for data.
- 16 Dispensers shall ensure that reports fall within these tolerances. Incomplete or
- 17 inaccurate data shall be corrected upon notification by the cabinet if the dispenser
- 18 exceeds these error tolerance rates.
- 19 (6) The Cabinet for Health Services shall be authorized to provide data to:
- 20 (a) A designated representative of a board responsible for the licensure,
- 21 regulation, or discipline of practitioners, pharmacists, or other person who is
- 22 authorized to prescribe, administer, or dispense controlled substances and who
- 23 is involved in a bona fide specific investigation involving a designated person;
- 24 (b) A Kentucky peace officer certified pursuant to KRS 15.380 to 15.404, a
- 25 certified or full-time peace officer of another state, or a federal peace officer
- 26 whose duty is to enforce the laws of this Commonwealth, of another state, or
- 27 of the United States relating to drugs and who is engaged in a bona fide

- 1           specific investigation involving a designated person;
- 2           (c) A state-operated Medicaid program;
- 3           (d) A properly convened grand jury pursuant to a subpoena properly issued for the
- 4           records;
- 5           (e) A practitioner or pharmacist who requests information and certifies that the
- 6           requested information is for the purpose of providing medical or
- 7           pharmaceutical treatment to a bona fide current patient;
- 8           (f) In addition to the purposes authorized under paragraph (a) of this subsection,
- 9           the Kentucky Board of Medical Licensure, for any physician who is:
- 10           1. Associated in a partnership or other business entity with a physician who
- 11           is already under investigation by the Board of Medical Licensure for
- 12           improper prescribing practices;
- 13           2. In a designated geographic area for which a trend report indicates a
- 14           substantial likelihood that inappropriate prescribing may be occurring;
- 15           or
- 16           3. In a designated geographic area for which a report on another physician
- 17           in that area indicates a substantial likelihood that inappropriate
- 18           prescribing may be occurring in that area; or
- 19           (g) A judge or a probation or parole officer administering a diversion or probation
- 20           program of a criminal defendant arising out of a violation of this chapter or of
- 21           a criminal defendant who is documented by the court as a substance abuser
- 22           who is eligible to participate in a court-ordered drug diversion or probation
- 23           program.
- 24       (7) The Department for Medicaid Services may use any data or reports from the system
- 25       for the purpose of identifying Medicaid recipients whose usage of controlled
- 26       substances may be appropriately managed by a single outpatient pharmacy or
- 27       primary care physician.

- 1 (8) A person who receives data or any report of the system from the cabinet shall not  
 2 provide it to any other person or entity except by order of a court of competent  
 3 jurisdiction, except that:
- 4 (a) A peace officer specified in subsection (6)(b) of this section who is authorized  
 5 to receive data or a report may share that information with other peace officers  
 6 specified in subsection (6)(b) of this section authorized to receive data or a  
 7 report if the peace officers specified in subsection (6)(b) of this section are  
 8 working on a bona fide specific investigation involving a designated person.  
 9 Both the person providing and the person receiving the data or report under  
 10 this paragraph shall document in writing each person to whom the data or  
 11 report has been given or received and the day, month, and year that the data or  
 12 report has been given or received. This document shall be maintained in a file  
 13 by each law enforcement agency engaged in the investigation; and
- 14 (b) A representative of the Department for Medicaid Services may share data or  
 15 reports regarding overutilization by Medicaid recipients with a board  
 16 designated in paragraph (a) of subsection (6) of this section, or with a law  
 17 enforcement officer designated in paragraph (b) of subsection (6) of this  
 18 section; and
- 19 (c) The Department for Medicaid Services may submit the data as evidence in an  
 20 administrative hearing held in accordance with KRS Chapter 13B.
- 21 (9) The Cabinet for Health Services, all peace officers specified in subsection (6)(b) of  
 22 this section, all officers of the court, and all regulatory agencies and officers, in  
 23 using the data for investigative or prosecution purposes, shall consider the nature of  
 24 the prescriber's and dispenser's practice and the condition for which the patient is  
 25 being treated.
- 26 (10) The data and any report obtained therefrom shall not be a public record, except that  
 27 the Department for Medicaid Services may submit the data as evidence in an

1 administrative hearing held in accordance with KRS Chapter 13B.

2 (11) Knowing failure by a dispenser to transmit data to the cabinet as required by  
3 subsection (3), (4), or (5) of this section shall be a Class A misdemeanor.

4 (12) Knowing disclosure of transmitted data to a person not authorized by subsection (6)  
5 to subsection (8) of this section or authorized by KRS 315.121, or obtaining  
6 information under this section not relating to a bona fide specific investigation, shall  
7 be a Class D felony.

8 (13) The Commonwealth Office of ~~Governor's Office for~~ Technology, in consultation  
9 with the Cabinet for Health Services, shall submit an application to the United  
10 States Department of Justice for a drug diversion grant to fund a pilot project to  
11 study a real-time electronic monitoring system for Schedules II, III, IV, and V  
12 controlled substances. The pilot project shall:

13 (a) Be conducted in two (2) rural counties that have an interactive real-time  
14 electronic information system in place for monitoring patient utilization of  
15 health and social services through a federally funded community access  
16 program; and

17 (b) Study the use of an interactive system that includes a relational data base with  
18 query capability.

19 (14) Provisions in this section that relate to data collection, disclosure, access, and  
20 penalties shall apply to the pilot project authorized under subsection (13) of this  
21 section.

22 (15) The Cabinet for Health Services may limit the length of time that data remain in the  
23 electronic system. Any data removed from the system shall be archived and subject  
24 to retrieval within a reasonable time after a request from a person authorized to  
25 review data under this section.

26 (16) (a) The Cabinet for Health Services shall work with each board responsible for  
27 the licensure, regulation, or discipline of practitioners, pharmacists, or other



persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.

(b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.

(c) The cabinet shall work with the Justice Cabinet for the development of a continuing education program for law enforcement officers about the purposes and users of the electronic system for monitoring established in this section.

Section 628. KRS 224.01-310 is amended to read as follows:

(1) Application for a pollution control tax exemption certificate shall be filed with the Department of Revenue~~[-Cabinet]~~ in such manner and in such form as may be prescribed by regulations issued by the Department of Revenue~~[-Cabinet]~~ and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of air, noise, waste or water pollution control and any additional information deemed necessary by the Department of Revenue~~[-Cabinet]~~ for the proper administration of Acts 1974, Chapter 137. The cabinet shall provide technical assistance and factual information as requested in writing by the Department of Revenue~~[-Cabinet]~~. If the Department of Revenue~~[-Cabinet]~~ finds that the facility qualifies as a pollution control facility as defined in KRS 224.01-300(1), it shall enter a finding and issue a certificate to that effect. The effective date of said certificate shall be the date of the making of the application for such certificate.

(2) Before issuing a pollution control tax exemption certificate, the Department of

1 Revenue~~[- Cabinet]~~ shall give notice in writing by mail to the secretary of the  
 2 cabinet, and shall afford to the applicant and to the secretary of the cabinet an  
 3 opportunity for a hearing. On like notice and opportunity for a hearing, the  
 4 Department of Revenue~~[- Cabinet]~~ shall on its own initiative revoke such certificate  
 5 whenever any of the following appears:

- 6 (a) The certificate was obtained by fraud or misrepresentation;
- 7 (b) The holder of the certificate has failed substantially to proceed with the  
 8 construction, reconstruction, installation, or acquisition of the pollution  
 9 control facilities;
- 10 (c) The structure or equipment or both to which the certificate relates has ceased  
 11 to be used for the primary purpose of pollution control and is being used for a  
 12 different purpose.

13 (3) Provided, however, that where the circumstances so require, the Department of  
 14 Revenue~~[- Cabinet]~~ in lieu of revoking such certificate may modify the same.

15 (4) On the mailing of notice of the action of the Department of Revenue~~[- Cabinet]~~  
 16 revoking or modifying a certificate as provided in subsection (5) of this section,  
 17 such certificate shall cease to be in force or shall remain in force only as modified as  
 18 the case may require.

19 (5) A pollution control tax exemption certificate, when issued, shall be sent by certified  
 20 mail to the applicant and notice of such issuance in the form of certified copies  
 21 thereof shall be sent to the secretary of the cabinet. Notice of an order of the  
 22 Department of Revenue~~[- Cabinet]~~ denying, revoking, or modifying a certificate in  
 23 the form of certified copies thereof shall be sent by certified mail to the applicant or  
 24 the holder thereof and shall be sent to the secretary of the cabinet. The applicant or  
 25 holder and the secretary of the cabinet are deemed parties for the purpose of the  
 26 review afforded by subsection (6) of this section.

27 (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of

1 a pollution control tax exemption certificate may appeal from the final ruling of the  
 2 Department of Revenue~~[Cabinet]~~ to the Kentucky Board of Tax Appeals as  
 3 provided in KRS 131.340.

4 (7) In the event of the sale, lease, or other transfer of a pollution control facility, not  
 5 involving a different location or use, the holder of a pollution control tax exemption  
 6 certificate for such facility may transfer the certificate by written instrument to the  
 7 person who, except for the transfer of the certificate, would be obligated to pay  
 8 taxes on such facility. The transferee shall become the holder of the certificate and  
 9 shall have all rights pertaining thereto, effective as of the date of transfer of the  
 10 facility or the date of transfer of the certificate, whichever is earlier. The transferee  
 11 shall give written notice of the effective date of the transfer, together with a copy of  
 12 the instrument of transfer to the cabinet and to the Department of Revenue~~[Cabinet]~~.  
 13

14 (8) In the event a pollution control facility for which an exemption certificate is held  
 15 ceases to be used for the primary purpose of pollution control or is used for a  
 16 different purpose than that for which the exemption certificate was granted, the  
 17 holder of the certificate shall give written notice by certified mail of such change to  
 18 the cabinet and to the Department of Revenue~~[Cabinet]~~.

19 Section 629. KRS 224.50-868 is amended to read as follows:

- 20 (1) Until July 31, 2006, a person purchasing a new motor vehicle tire in Kentucky shall  
 21 pay to the retailer a one dollar (\$1) fee at the time of the purchase of that tire. A new  
 22 tire is a tire that has never been placed on a motor vehicle wheel rim, but it is not a  
 23 tire placed on a motor vehicle prior to its original retail sale or a recapped tire. The  
 24 term "motor vehicle" as used in this section shall mean "motor vehicle" as defined  
 25 in KRS 138.450. The fee shall not be subject to the Kentucky sales tax.
- 26 (2) When a person purchases a new motor vehicle tire in Kentucky to replace another  
 27 tire, the tire that is replaced becomes a waste tire subject to the waste tire program.

1 The person purchasing the new motor vehicle tire shall either offer the retailer that  
 2 waste tire or meet the following requirements:

- 3 (a) Dispose of the waste tire in accordance with KRS 224.50-856(1);
- 4 (b) Deliver the waste tire to a person registered in accordance with the waste tire  
 5 program; or
- 6 (c) Reuse the waste tire for its original intended purpose or an agricultural  
 7 purpose.

8 (3) A retailer shall report to the Department of Revenue~~[Cabinet]~~ on or before the  
 9 twentieth day of each month the number of new motor vehicle tires sold during the  
 10 preceding month and the number of waste tires received from customers that month.  
 11 The report shall be filed on forms and contain information as the Department of  
 12 Revenue~~[Cabinet]~~ may require. The retailer shall remit with the report ninety-five  
 13 percent (95%) of the fees collected for the preceding month and may retain a five  
 14 percent (5%) handling fee.

15 (4) A retailer shall:

- 16 (a) Accept from the purchaser of a new tire, if offered, for each new motor  
 17 vehicle tire sold, a waste tire of similar size and type; and
- 18 (b) Post notice at the place where retail sales are made that state law requires the  
 19 retailer to accept, if offered, a waste tire for each new motor vehicle tire sold  
 20 and that a person purchasing a new motor vehicle tire to replace another tire  
 21 shall comply with subsection (2) of this section. The notice shall also include  
 22 the following wording: "State law requires a new tire buyer to pay one dollar  
 23 (\$1) for each new tire purchased. The money is collected and used by the state  
 24 to oversee the management of waste tires, including cleaning up abandoned  
 25 waste tire piles and preventing illegal dumping of waste tires."

26 (5) A retailer shall comply with the requirements of the recordkeeping system for waste  
 27 tires established by KRS 224.50-874.

- 1 (6) A retailer shall transfer waste tires only to a person who presents a letter from the  
 2 cabinet approving the registration issued under KRS 224.50-858 or a copy of a solid  
 3 waste disposal facility permit issued by the cabinet, unless the retailer is delivering  
 4 the waste tires to a destination outside Kentucky and the waste tires will remain in  
 5 the retailer's possession until they reach that destination.

6 Section 630. KRS 224.50-870 is amended to read as follows:

7 The Department of Revenue~~[Cabinet]~~ shall transfer monthly fees collected pursuant to  
 8 KRS 224.50-868 to the State Treasury, for deposit into the waste tire trust fund  
 9 established by KRS 224.50-880. All assessment and collection powers conveyed to the  
 10 Department of Revenue~~[Cabinet]~~ for the assessment and collection of taxes shall apply  
 11 to the assessment and collection of the fees. The Department of Revenue~~[Cabinet]~~ shall  
 12 be reimbursed from the waste tire trust fund for its costs incurred in assessing and  
 13 collecting the fees, with the reimbursement not to exceed fifty thousand dollars (\$50,000)  
 14 per year.

15 Section 631. KRS 224.50-880 is amended to read as follows:

- 16 (1) A waste tire trust fund is established in the state treasury. The fund shall be used by  
 17 the cabinet for the following purposes:
- 18 (a) Properly managing waste tires;
  - 19 (b) Paying the cabinet's costs in implementing the waste tire program to include  
 20 costs associated with any waste tire amnesty program established by the  
 21 cabinet that permits waste tires to be turned in without incurring fees, charges,  
 22 or penalties;
  - 23 (c) Paying the Department of Revenue's~~[Revenue Cabinet's]~~ costs of assessing  
 24 and collecting the fee established by KRS 224.50-868;
  - 25 (d) Entering into the agreements described in KRS 224.50-876; and
  - 26 (e) Awarding the grants described in KRS 224.50-878.
- 27 (2) All interest earned on money in the fund shall be credited to the fund.

1 (3) Money unexpended at the end of a fiscal year shall not lapse to the general fund.

2 (4) Any money remaining in the waste tire trust fund established by KRS 224.50-820  
3 shall be transferred to the fund established by this section.

4 Section 632. KRS 224.60-145 is amended to read as follows:

5 (1) Except as provided in subsection (2) of this section, there is established a petroleum  
6 environmental assurance fee to be paid by dealers on each gallon of gasoline and  
7 special fuels received in this state.

8 (2) All deductions detailed in KRS 138.240(2), gasoline and special fuels sold for  
9 agricultural purposes, and special fuels sold exclusively to heat a personal residence  
10 are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a  
11 statement supporting a claimed exemption, an additional statement shall not be  
12 required for claiming exemption from the fee.

13 (3) The fee shall be reported and paid to the Department of Revenue~~[Cabinet]~~ at the  
14 same time and in the same manner as is required for the reporting and payment of  
15 the gasoline and special fuels taxes as provided by law.

16 (4) The petroleum environmental assurance fee shall be set at one and four-tenths cent  
17 (\$0.014) for each gallon. Four-tenths of a cent (\$0.004) per gallon shall be  
18 deposited in the financial responsibility account and one cent (\$0.01) shall be  
19 deposited in the petroleum storage tank account.

20 (5) Within thirty (30) days of the close of fiscal year 2001-2002 and each fiscal year  
21 thereafter, the state budget director shall review the balance of each account to  
22 determine if a surplus exists. "Surplus" means funds in excess of the amounts  
23 necessary to satisfy the obligations in each account for all eligible facilities, to  
24 satisfy future liabilities and expenses necessary to operate each account, and to  
25 maintain an appropriate reserve in the financial responsibility account to  
26 demonstrate financial responsibility and compensate for third-party claims. The  
27 state budget director shall report the determination to the Interim Joint Committee

on Appropriations and Revenue. After a determination that a surplus exists, the surplus shall be transferred to a restricted account and retained until appropriated by the General Assembly.

(6) All provisions of law related to the Department of Revenue's~~[Revenue Cabinet's]~~ administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the Department of Revenue~~[-Cabinet]~~ by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.

(7) The Department of Revenue~~[-Cabinet]~~ shall refund the fee imposed by KRS 224.60-145(1) to any person who paid the fee provided they are entitled to a refund of motor fuel tax under KRS 138.344 to KRS 138.355 and to any person who paid the fee on transactions exempted under KRS 224.60-145(2).

(8) Notwithstanding any other provisions of KRS 65.180, 65.182, 68.600 to 68.606, 139.470, 183.165, 224.60-115, 224.60-130, 224.60-137, 224.60-140, 224.60-142, and this section to the contrary, the small operator assistance account and small operator tank removal account established under KRS 224.60-130 shall continue in effect until July 15, 2008, and thereafter until all eligible claims related to tanks registered by that date are resolved, and sufficient money shall be allocated to and maintained in that account to assure prompt payment of all eligible claims, and to provide for removal of tanks for eligible owners and operators as directed by this chapter.

Section 633. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct horse racing at a horse race meeting within the Commonwealth of Kentucky or to engage in simulcasting and intertrack wagering as a receiving track during any calendar year shall first apply to the authority for a license to do so. The application shall be filed at the authority's general office on or before October 1 of the preceding year with respect to applications to conduct live

1 horse race meetings, and with respect to intertrack wagering dates, and on forms  
 2 prescribed by the authority. The application shall include the following information:

- 3 (a) The full name and address of the person making application;
- 4 (b) The location of the place, track, or enclosure where the applicant proposes to  
 5 conduct horse racing meetings;
- 6 (c) The dates on which the applicant intends to conduct horse racing, which shall  
 7 be successive days unless authorized by the authority;
- 8 (d) The proposed hours of each racing day and the number of races to be  
 9 conducted;
- 10 (e) The names and addresses of all principals associated with the applicant or  
 11 licensee;
- 12 (f) The type of organizational structure under which the applicant operates, i.e.,  
 13 partnership, trust, association, limited liability company, or corporation, and  
 14 the address of the principal place of business of the organization;
- 15 (g) Any criminal activities in any jurisdiction for which any individual listed  
 16 under paragraphs (a) and (e) has been arrested or indicted and the disposition  
 17 of the charges, and any current or on-going criminal investigation of which  
 18 any of these individuals is the subject; and
- 19 (h) Any other information that the authority by administrative regulation deems  
 20 relevant and necessary to determine the fitness of the applicant to receive a  
 21 license, including fingerprints of any individual listed under paragraphs (a)  
 22 and (e), if necessary for proper identification of the individual or a  
 23 determination of suitability to be associated with a licensed racing association.

24 (2) An application for license shall be accompanied by the following documents:

- 25 (a) For a new license applicant, a financial statement prepared and attested to by a  
 26 certified public accountant in accordance with generally accepted accounting  
 27 principles, showing the following:



- 1           1.    The net worth of the applicant;
- 2           2.    Any debts or financial obligations owed by the applicant and the persons
- 3                 to whom owed; and
- 4           3.    The proposed or current financing structure for the operation and the
- 5                 sources of financing.
- 6           (b)   For a license renewal applicant, an audited financial statement for the prior
- 7                 year;
- 8           (c)   A copy of the applicant's federal and state tax return for the previous year. Tax
- 9                 returns submitted in accordance with this provision shall be treated as
- 10                confidential;
- 11           (d)   A statement from the Department of Revenue~~[-Cabinet]~~ that there are no
- 12                 delinquent taxes or other financial obligations owed by the applicant to the
- 13                 state or any of its agencies or departments;
- 14           (e)   A statement from the county treasurer of the county in which the applicant
- 15                 conducts or proposes to conduct horse racing meetings that there are no
- 16                 delinquent real or personal property taxes owed by the applicant.
- 17    (3)   The completed application shall be signed by the applicant or the chief executive
- 18           officer if the applicant is an organization, sworn under oath that the information is
- 19           true, accurate, and complete, and the application shall be notarized.
- 20    (4)   If there is any change in any information submitted in the application process, the
- 21           applicant or licensee shall notify the authority within thirty (30) days of the change.
- 22    (5)   The authority shall as soon as practicable, but in no event later than November 1 in
- 23           any calendar year, award dates for racing in the Commonwealth during the next
- 24           year. In awarding dates, the authority shall consider and seek to preserve each
- 25           track's usual and customary dates, as these dates are requested. If dates other than
- 26           the usual and customary dates are requested, the applicant shall include a statement
- 27           in its application setting forth the reasons the requested dates are sought. Dates for

1 the conduct of intertrack wagering shall be awarded as provided in KRS 230.377. In  
2 the event scheduled racing is canceled by reason of flood, fire, inclement weather,  
3 or other natural disaster or emergency, the authority may award after November 1  
4 additional racing dates to make up for those dates canceled.

5 (6) The authority may issue a license to conduct a horse race meeting to any association  
6 making the aforesaid application if the applicant meets the requirements established  
7 in KRS 138.530 and other applicable provisions of this chapter, and if the authority  
8 finds that the proposed conduct of racing by the association would be in the best  
9 interest of the public health, safety, and welfare of the immediate community as  
10 well as to the Commonwealth.

11 (7) As a condition precedent to the issuance of a license, the authority may require a  
12 surety bond or other surety conditioned upon the payment of all taxes due the  
13 Commonwealth, together with the payment of operating expenses including purses  
14 and awards to owners of horses participating in races.

15 (8) Every license issued under this chapter shall specify among other things the name of  
16 the person to whom issued, the address and location of the track where the horse  
17 race meeting to which it relates is to be held or conducted, and the days and hours  
18 of the day when the meeting will be permitted; provided, however, that no track that  
19 is granted overlapping dates for the conduct of a live race meeting with another  
20 horse racing track within a fifty (50) mile radius shall be permitted to have a post  
21 time after 5:30 p.m., prevailing time for overlapping days between July 1 and  
22 September 15, unless agreed to in writing by the tracks affected.

23 (9) A license issued under this section is neither transferable nor assignable and shall  
24 not permit the conduct of a horse race meeting at any track not specified therein.  
25 However, if the track specified becomes unsuitable for racing because of flood, fire,  
26 or other catastrophe, the authority may, upon application, authorize the meeting, or  
27 any remaining portion thereof, to be conducted at any other suitable track available

1 for that purpose, provided that the owner of the track willingly consents to the use  
2 thereof.

3 (10) Horse racing dates may be awarded and licenses issued authorizing horse racing on  
4 any day of the year. Horse racing shall be held or conducted only between sunrise  
5 and midnight.

6 (11) The authority may at any time require the removal of any official or employee of  
7 any association in those instances where it has reason to believe that the official or  
8 employee has been guilty of any dishonest practice in connection with horse racing  
9 or has failed to comply with any condition of his license or has violated any law or  
10 any administrative regulation of this authority.

11 (12) Every horse race not licensed under this section is hereby declared to be a public  
12 nuisance and the authority may obtain an injunction against the same in the Circuit  
13 Court of the county where the unlicensed race is proposed to take place.

14 Section 634. KRS 234.310 is amended to read as follows:

15 As used in KRS 234.310 to 234.440, unless the context requires otherwise:

16 (1) "Department"~~["Cabinet"]~~ means the Department of Revenue~~["Cabinet"]~~;

17 (2) "Person" includes every natural person, fiduciary, association, state, or political  
18 subdivision, or corporation. Whenever used in any clause prescribing and imposing  
19 imprisonment the term "person" as applied to an association means and includes the  
20 partners or members thereof, and as applied to corporations, the officers thereof;

21 (3) "Liquefied petroleum gas motor fuel" means and includes all combustible gases and  
22 liquids as described in KRS 234.100 used for the generation of power in an internal  
23 combustion engine to propel vehicles of any kind upon the public highways;

24 (4) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled  
25 by an internal combustion engine and licensed for operation and operated upon the  
26 public highways and any trailer or semitrailer attached to or having its front end  
27 supported by such motor vehicle;

1 (5) "Public highways" means every way or place generally open to the use of the public  
 2 as a matter of right for the purpose of vehicular travel, notwithstanding that they  
 3 may be temporarily closed or travel thereon restricted for the purpose of  
 4 construction, maintenance, repair or reconstruction;

5 (6) "Liquefied petroleum gas motor fuel dealer" means any person who imports or  
 6 causes to be imported into this state for resale or use, or any person making sales in  
 7 this state, of liquefied petroleum gas motor fuel for resale or use in this state by a  
 8 licensed liquefied petroleum gas motor fuel user-seller;

9 (7) "Liquefied petroleum gas motor fuel user-seller" means any person, not licensed as  
 10 a liquefied petroleum gas motor fuel dealer, who dispenses liquefied petroleum gas  
 11 motor fuel into the fuel tanks of, or attached to, motor vehicles for the propulsion of  
 12 such motor vehicles on the public highways, and shall include any such person who  
 13 so dispenses liquefied petroleum gas motor fuel for consumption in such motor  
 14 vehicles owned, leased, or operated by him.

15 Section 635. KRS 234.320 is amended to read as follows:

16 (1) An excise tax at the rate levied in KRS 138.220(1) and (2) is hereby levied and shall  
 17 be paid by the liquefied petroleum gas motor fuel dealer to the department~~[cabinet]~~  
 18 on all taxable liquefied petroleum gas motor fuel delivered to the licensed liquefied  
 19 petroleum gas motor fuel user-seller or withdrawn by the liquefied petroleum gas  
 20 motor fuel dealer to propel motor vehicles on the public highways, either within or  
 21 without this state. An allowance of one percent (1%) of the tax shall be made to the  
 22 liquefied petroleum gas motor fuel dealer to cover unaccountable losses, bad debts,  
 23 and handling and reporting the tax.

24 (2) No other excise or license tax shall be levied or assessed on liquefied petroleum gas  
 25 motor fuel by any political subdivision of the state, except the licenses under KRS  
 26 234.120.

27 (3) No provision of KRS 234.310 to 234.440 shall in any way affect the surtax imposed

1 on heavy equipment motor carriers under KRS 138.660.

2 Section 636. KRS 234.330 is amended to read as follows:

3 (1) A license shall be required of each liquefied petroleum gas motor fuel dealer.

4 (2) Application for a license shall be made to the department{cabinet} upon forms  
5 prepared and furnished by the department{cabinet}. The application shall contain  
6 such information as the department{cabinet} deems necessary.

7 (3) Concurrently with the filing of an application for a license, a liquefied petroleum  
8 gas motor fuel dealer shall file with the department{cabinet} a bond as required  
9 under KRS 234.340. No license shall be issued to any person unless such person has  
10 furnished a bond as provided in KRS 234.340 to secure payment of taxes, penalties  
11 and interest imposed by KRS 234.310 to 234.440.

12 (4) The application in proper form having been accepted for filing, the bond, if  
13 required, having been accepted and approved and the other conditions and  
14 requirements of this section having been complied with, the department{cabinet}  
15 shall issue a license. However, if an application for a license is filed by any person  
16 whose license has at any time previously been revoked for cause by the  
17 department{cabinet}, or if the department{cabinet} is of the opinion that the person  
18 who makes the application as a subterfuge for the real party in interest whose  
19 license, prior to the time of filing the application, has been revoked for cause, or  
20 that the application is not for any other reason filed in good faith or is not for  
21 sufficient cause, the department{cabinet} may, after a hearing of which the  
22 applicant shall be given ten (10) days' notice in writing and in which he shall have  
23 the right to appear in person or by counsel and present testimony, refuse to issue a  
24 license to that person.

25 (5) All licenses shall be valid and remain in full force and effect until suspended or  
26 revoked for cause or otherwise canceled.

27 (6) A license shall not be assignable or transferable and shall be valid only for the

1 person in whose name it is issued.

2 (7) The department[cabinet] shall keep and file all applications and bonds, with an  
3 alphabetical index thereof.

4 Section 637. KRS 234.340 is amended to read as follows:

5 (1) Every liquefied petroleum gas motor fuel dealer shall file with the  
6 department[cabinet] a corporate bond, cash bond, or securities approved by the  
7 department[cabinet] in a minimum amount of five hundred dollars (\$500) and in a  
8 maximum amount of four (4) months' liability for taxes imposed under KRS  
9 234.310 to 234.440 but not to exceed fifty thousand dollars (\$50,000). If, however,  
10 a liquefied petroleum gas motor fuel dealer is bonded as provided in KRS 138.330  
11 the department[cabinet] may waive the bonding requirement in this section  
12 provided a rider is attached to the bond to guarantee payment of all liquefied  
13 petroleum gas motor fuel taxes together with all penalties and interest thereon and  
14 secure faithful compliance with the provisions of KRS 234.310 to 234.440. The  
15 applicant for a license shall be the principal obligor and this state shall be the  
16 obligee. The bond shall be conditioned upon the prompt filing of true reports and  
17 the payment by the licensee to the department[cabinet] of all taxes levied under  
18 KRS 234.310 to 234.440, together with all penalties and interest thereon and  
19 generally upon faithful compliance with the provisions of KRS 234.310 to 234.440.

20 (2) If the liability upon the bond is discharged or reduced, whether by judgment  
21 rendered, payment made, or otherwise or if in the opinion of the  
22 department[cabinet] any surety has become unsatisfactory or unacceptable, the  
23 department[cabinet] may require the licensee to file a new bond with satisfactory  
24 surety in the same form and amount, failing which the department[cabinet] shall  
25 cancel the license in accordance with the provisions of this section. If a new bond is  
26 furnished by the licensee as above provided, the department[cabinet] shall cancel  
27 the bond for which the new bond is substituted.

- 1 (3) If upon an informal hearing, of which the licensee shall be given ten (10) days'  
 2 notice in writing, the department~~[cabinet]~~ decides that the amount of the existing  
 3 bond is insufficient to insure payment to this state of the amount of the tax,  
 4 penalties, and interest for which the licensee is or may become liable, the licensee  
 5 shall, upon the written demand of the department~~[cabinet]~~, file an additional bond  
 6 in the same manner and form with surety thereon approved by the  
 7 department~~[cabinet]~~, in any amount determined by the department~~[cabinet]~~ to be  
 8 necessary, failing which the department~~[cabinet]~~ shall cancel the license in  
 9 accordance with the provisions of this section.
- 10 (4) Any surety on a bond furnished by a licensee shall be released from all liability to  
 11 this state accruing on the bond after the expiration of sixty (60) days from the date  
 12 upon which the surety has lodged with the department~~[cabinet]~~ a written request to  
 13 be released, but this request shall not operate to release the surety from any liability  
 14 already accrued or which shall accrue before the expiration of the sixty (60) day  
 15 period. The department~~[cabinet]~~ shall, promptly on the receipt of the request, notify  
 16 the licensee who furnished the bond, and unless the licensee shall, before the  
 17 expiration of the sixty (60) day period, file with the department~~[cabinet]~~ a new  
 18 bond with surety satisfactory to the department~~[cabinet]~~ in the amount and form  
 19 prescribed in this section, the department~~[cabinet]~~ shall cancel the license in  
 20 accordance with the provisions of this section. If the new bond is furnished by the  
 21 licensee as above provided, the department~~[cabinet]~~ shall cancel the bond for which  
 22 the new bond is substituted.

23 Section 638. KRS 234.350 is amended to read as follows:

- 24 (1) If a licensee at any time files a false monthly report of the information required, or  
 25 fails or refuses to file the monthly report or to pay the full amount of the tax or  
 26 violates any other provision of KRS 234.310 to 234.440, without a showing that the  
 27 failure was due to reasonable cause, the department~~[cabinet]~~ may cancel the license

- 1 and suspend the privilege of acting as a liquefied petroleum gas motor fuel dealer.
- 2 (2) Upon voluntary surrender of the license or upon receipt of a written request by a  
 3 licensee, the department~~[cabinet]~~ may cancel his license, effective sixty (60) days  
 4 from the date of request, but no license shall be canceled upon surrender or request  
 5 unless the licensee has, prior to the date of cancellation, paid to this state all taxes,  
 6 penalties, interest, and fines that are due or have accrued, and unless the licensee  
 7 has surrendered to the department~~[cabinet]~~ his license.
- 8 (3) If upon investigation the department~~[cabinet]~~ ascertains that any person to whom a  
 9 license has been issued is no longer engaged as a liquefied petroleum gas motor fuel  
 10 dealer or a liquefied petroleum gas motor fuel user-seller, and has not been so  
 11 engaged for a period of six (6) months, the department~~[cabinet]~~ may cancel the  
 12 license by giving the person sixty (60) days' notice of cancellation, mailed to his last  
 13 known address in which event the license shall be surrendered to the  
 14 department~~[cabinet]~~.
- 15 (4) Whenever a licensee ceases to engage in business within this state, he shall notify  
 16 the department~~[cabinet]~~ in writing within fifteen (15) days after discontinuance. All  
 17 taxes that have accrued under KRS 234.310 to 234.440, whether or not then due,  
 18 shall become due and payable concurrently with the discontinuance. The licensee  
 19 shall make a report and pay all such taxes and any interest and penalties thereon,  
 20 and shall surrender to the department~~[cabinet]~~ his license.
- 21 (5) If the department~~[cabinet]~~ takes action to cancel a license as provided in this  
 22 section, the licensee shall be notified by certified or registered letter or summons of  
 23 the charges against him, and he shall be afforded an opportunity for an informal  
 24 hearing on the matter. The hearing shall be set at least five (5) days from the date  
 25 the letter is delivered or the summons is served. Any licensee aggrieved by a  
 26 decision to cancel his license after the informal hearing may appeal the decision to  
 27 the Kentucky Board of Tax Appeals where he shall be granted an administrative



1 hearing in accordance with KRS Chapter 13B.

- 2 (6) If the license is canceled by the department[cabinet] as provided in this section, and  
 3 if the licensee has paid to this state all taxes, interest, and penalties under KRS  
 4 234.310 to 234.440, the department[cabinet] shall cancel the bond filed by the  
 5 licensee.

6 Section 639. KRS 234.360 is amended to read as follows:

- 7 (1) Every liquefied petroleum gas motor fuel dealer licensee shall maintain complete  
 8 records of inventories, purchases, sales, use and other dispositions of liquefied  
 9 petroleum gas. Such records, together with manifests of lading, invoices,  
 10 correspondence, and other papers pertaining to liquefied petroleum gas motor fuel  
 11 shall be retained for a minimum of two (2) years, and if requested by the  
 12 department[cabinet], shall be made available for examination by the  
 13 department[cabinet].

- 14 (2) Where storage of liquefied petroleum gas is for multiple uses, and where the  
 15 number of gallons taxable of liquefied petroleum gas motor fuel is determined by  
 16 the liquefied petroleum gas motor fuel dealer and/or the liquefied petroleum gas  
 17 motor fuel user-seller, based on the best estimate possible from mileage and  
 18 efficiency records available, all mileage and efficiency records of such motor  
 19 vehicle must be retained for a minimum period of two (2) years, and, if requested by  
 20 the department[cabinet], shall be made available for examination by the  
 21 department[cabinet].

22 Section 640. KRS 234.370 is amended to read as follows:

- 23 (1) Every liquefied petroleum motor fuel dealer licensee shall file with the  
 24 department[cabinet], on forms prescribed by the department[cabinet], a monthly  
 25 tax return. The return shall be made under penalty of perjury and shall show such  
 26 information as the department[cabinet] may require. The licensee shall file the  
 27 return on or before the twenty-fifth day of the next succeeding calendar month

1 following the month to which it relates.

2 (2) The monthly tax return shall be accompanied by remittance covering the tax due.

3 Section 641. KRS 234.380 is amended to read as follows:

4 Liquefied petroleum gas motor fuel dealers using, selling, and/or delivering liquefied  
5 petroleum gas to motor vehicles, or into storage for use in motor vehicles, shall report and  
6 pay the state tax at the rate levied in KRS 138.220(1) and (2) on all such fuel to the  
7 Department of Revenue~~[Cabinet]~~. The dealer shall issue an invoice to the customer  
8 whenever the sale or delivery is consummated giving the invoice date, name and address  
9 of the customer, and number of taxable gallons sold or delivered. The number of taxable  
10 gallons to be invoiced shall be determined in the following manner by the dealer:

11 (1) The metered gallons, if placed into a fuel tank of a motor vehicle;

12 (2) The metered gallons, if placed into storage, all of which is to be used or sold for use  
13 in motor vehicles;

14 (3) The number of gallons to be used in motor vehicles, if the storage is for multiple  
15 uses. The number of taxable gallons to be determined by the user and the dealer  
16 based on the best estimate possible from mileage and efficiency records available;  
17 or

18 (4) If the motor vehicle carburetor is connected to a fuel line leading from a fuel tank  
19 where another, or other motors are supplied with fuel also, then the number of  
20 gallons to be invoiced as taxable motor fuel shall be determined from mileage and  
21 fuel efficiency records.

22 Section 642. KRS 234.400 is amended to read as follows:

23 The department~~[cabinet]~~ may audit the books and records of each licensee and make such  
24 other investigations as it deems necessary to determine whether or not the tax and other  
25 requirements imposed by KRS 234.310 to 234.440 have been met.

26 Section 643. KRS 234.410 is amended to read as follows:

27 The reports required by KRS 234.370 shall be accompanied by a certified or cashier's

1 check payable to the State Treasurer, for the amount of tax due for the preceding calendar  
 2 month computed as provided in KRS 234.380, except that the department~~{cabinet}~~ may  
 3 waive this requirement and accept the check of the licensee if he is of sound financial  
 4 condition and has established a good record of compliance with the requirements of KRS  
 5 234.310 to 234.440.

6 Section 644. KRS 234.440 is amended to read as follows:

7 (1) The department~~{cabinet}~~ shall administer the taxes provided in KRS 234.310 to  
 8 234.430 and this section and may prescribe, adopt and enforce regulations relating  
 9 to the administration and enforcement thereof.

10 (2) The department~~{cabinet}~~ shall, upon the request of the officials to whom are  
 11 entrusted the enforcement of the liquefied petroleum gas motor fuel tax law of any  
 12 other state of the United States or the provinces of the Dominion of Canada,  
 13 forward to such officials any information which it may have relative to the  
 14 manufacture, receipt, sale, use, transportation, shipment, or delivery by any person  
 15 of liquefied petroleum gas motor fuel, provided such other state or states provide for  
 16 the furnishing of like information to this state.

17 Section 645. KRS 241.010 is amended to read as follows:

18 As used in this chapter and in KRS Chapters 242 and 243, unless the context requires  
 19 otherwise:

20 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from  
 21 whatever source or by whatever process it is produced.

22 (2) "Alcoholic beverage" means every liquid or solid, whether patented or not,  
 23 containing alcohol in an amount in excess of more than one percent (1%) of alcohol  
 24 by volume, which is fit for beverage purposes. It includes every spurious or  
 25 imitation liquor sold as, or under any name commonly used for, alcoholic  
 26 beverages, whether containing any alcohol or not. It does not include the following  
 27 products:

- 1 (a) Medicinal preparations manufactured in accordance with formulas prescribed
- 2 by the United States Pharmacopoeia, National Formulary, or the American
- 3 Institute of Homeopathy;
- 4 (b) Patented, patent, and proprietary medicines;
- 5 (c) Toilet, medicinal, and antiseptic preparations and solutions;
- 6 (d) Flavoring extracts and syrups;
- 7 (e) Denatured alcohol or denatured rum;
- 8 (f) Vinegar and preserved sweet cider;
- 9 (g) Wine for sacramental purposes;
- 10 (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external
- 11 use; and
- 12 (i) Malt beverages, containing not more than three and two-tenths percent (3.2%)
- 13 of alcohol by weight, in territory that has voted to allow the sale thereof.
- 14 (3) "Board" means the State Alcoholic Beverage Control Board created by KRS
- 15 241.030.
- 16 (4) "Bottle" means any container which is used for holding alcoholic beverages for the
- 17 use and sale of alcoholic beverages at retail.
- 18 (5) "Brewer" means any person who manufactures malt beverages or owns, occupies,
- 19 carries on, works, or conducts any brewery, either by himself or by his agent.
- 20 (6) "Brewery" means any place or premises where malt beverages are manufactured for
- 21 sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards,
- 22 and storerooms connected with the premises; or where any part of the process of the
- 23 manufacture of malt beverages is carried on; or where any apparatus connected with
- 24 manufacture is kept or used; or where any of the products of brewing or
- 25 fermentation are stored or kept.
- 26 (7) "Building containing licensed premises" means the licensed premises themselves
- 27 and includes the land, tract of land, or parking lot in which the premises are

1 contained, and any part of any building connected by direct access or by an entrance  
 2 which is under the ownership or control of the licensee by lease holdings or  
 3 ownership.

4 ~~(8) "Cabinet" means the Revenue Cabinet unless the context requires otherwise.~~

5 (9) "Caterer" means a corporation, partnership, or individual that operates the business  
 6 of a food service professional by preparing food in a licensed and inspected  
 7 commissary, transporting the food and alcoholic beverages to the caterer's  
 8 designated and inspected banquet hall or to a location selected by the customer, and  
 9 serving the food and alcoholic beverages to the customer's guests.

10 ~~(9)~~(10) "Charitable organization" means a nonprofit entity recognized as exempt from  
 11 federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec.  
 12 501(c)) or any organization having been established and continuously operating  
 13 within the Commonwealth of Kentucky for charitable purposes for three (3) years  
 14 and which expends at least sixty percent (60%) of its gross revenue exclusively for  
 15 religious, educational, literary, civic, fraternal, or patriotic purposes.

16 ~~(10)~~(11) "Cider" means any fermented fruit-based beverage containing more than one-  
 17 tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry  
 18 cider.

19 ~~(11)~~(12) "City administrator" means city alcoholic beverage control administrator.

20 ~~(12)~~(13) "Commissioner" means the commissioner of alcoholic beverage control.

21 ~~(13)~~(14) "Convention center" means any facility which, in its usual and customary  
 22 business, provides seating for a minimum of one thousand (1,000) people and offers  
 23 convention facilities and related services for seminars, training and educational  
 24 purposes, trade association meetings, conventions, or civic and community events  
 25 or for plays, theatrical productions, or cultural exhibitions.

26 ~~(14)~~(15) "Convicted" and "conviction" means a finding of guilt resulting from a plea of  
 27 guilty, the decision of a court, or the finding of a jury, irrespective of a

1 pronouncement of judgment or the suspension of the judgment.

2 ~~(15)~~~~(16)~~ "County administrator" means county alcoholic beverage control  
3 administrator.

4 ~~(16)~~~~(17)~~ "Department" means the Department of Alcoholic Beverage Control.

5 ~~(17)~~~~(18)~~ "Distilled spirits" or "spirits" means any product capable of being consumed  
6 by a human being which contains alcohol in excess of the amount permitted by  
7 KRS Chapter 242 obtained by distilling, mixed with water or other substances in  
8 solution, except wine, hard cider, and malt beverages.

9 ~~(18)~~~~(19)~~ "Distiller" means any person who is engaged in the business of manufacturing  
10 distilled spirits at any distillery in the state and is registered in the Office of the  
11 Collector of Internal Revenue for the United States at Louisville, Kentucky.

12 ~~(19)~~~~(20)~~ "Distillery" means any place or premises where distilled spirits are  
13 manufactured for sale, and which are registered in the office of any collector of  
14 internal revenue for the United States. It includes any United States government  
15 bonded warehouse.

16 ~~(20)~~~~(21)~~ "Distributor" means any person who distributes malt beverages for the  
17 purpose of being sold at retail.

18 ~~(21)~~~~(22)~~ "Dry territory" means a county, city, district, or precinct in which a majority of  
19 voters have voted in favor of prohibition.

20 ~~(22)~~~~(23)~~ "Farm winery" means a winery located on a Kentucky farm with a producing  
21 vineyard, orchard, or similar growing area, manufacturing and bottling wines in an  
22 amount not to exceed twenty-five thousand (25,000) gallons per year.

23 ~~(23)~~~~(24)~~ "Election" means:

24 (a) An election held for the purpose of taking the sense of the people as to the  
25 application or discontinuance of alcoholic beverage sales under KRS Chapter  
26 242; or

27 (b) Any other election not pertaining to alcohol.

1 ~~(24)~~~~(25)~~ "Field representative" means any employee or agent of the department who is  
 2 regularly employed and whose primary function is to travel from place to place for  
 3 the purpose of visiting taxpayers, and any employee or agent of the department who  
 4 is assigned, temporarily or permanently, by the commissioner to duty outside the  
 5 main office of the department at Frankfort, in connection with the administration of  
 6 alcoholic beverage statutes.

7 ~~(25)~~~~(26)~~ "License" means any license issued pursuant to KRS 243.020 to 243.670.

8 ~~(26)~~~~(27)~~ "Licensee" means any person to whom a license has been issued, pursuant to  
 9 KRS 243.020 to 243.670.

10 ~~(27)~~~~(28)~~ "Limited restaurant" means a facility where the usual and customary business  
 11 is the serving of meals to consumers, which has a bona fide kitchen facility, which  
 12 receives at least seventy percent (70%) of its gross income from the sale of food,  
 13 which maintains a minimum seating capacity of one hundred (100) persons for  
 14 dining, and which is located in a territory where prohibition is no longer in effect  
 15 under KRS 242.185(6).

16 ~~(28)~~~~(29)~~ "Malt beverage" means any fermented undistilled alcoholic beverage of any  
 17 name or description, manufactured from malt wholly or in part, or from any  
 18 substitute for malt, and having an alcoholic content greater than that permitted  
 19 under subsection (2)(i) of this section.

20 ~~(29)~~~~(30)~~ "Manufacture" means distill, rectify, brew, bottle, and operate a winery.

21 ~~(30)~~~~(31)~~ "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other  
 22 person engaged in the production or bottling of alcoholic beverages.

23 ~~(31)~~~~(32)~~ "Minor" means any person who is not twenty-one (21) years of age or older.

24 ~~(32)~~~~(33)~~ "Premises" means the land and building in and upon which any business  
 25 regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall  
 26 not include as a single unit two (2) or more separate businesses of one (1) owner on  
 27 the same lot or tract of land, in the same or in different buildings if physical and

1 permanent separation of the premises is maintained, excluding employee access by  
 2 keyed entry and emergency exits equipped with crash bars, and each has a separate  
 3 public entrance accessible directly from the sidewalk or parking lot. Any licensee  
 4 holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this  
 5 subsection, be ineligible to continue to hold his or her license or obtain a renewal,  
 6 of the license.

7 ~~(33)~~~~(34)~~ "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.

8 ~~(34)~~~~(35)~~ "Rectifier" means any person who rectifies, purifies, or refines distilled spirits  
 9 or wine by any process other than as provided for on distillery premises, and every  
 10 person who, without rectifying, purifying, or refining distilled spirits by mixing  
 11 alcoholic beverages with any materials, manufactures any imitations of or  
 12 compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,  
 13 spirits, cordials, bitters, or any other name.

14 ~~(35)~~~~(36)~~ "Repackaging" means the placing of alcoholic beverages in any retail  
 15 container irrespective of the material from which the container is made.

16 ~~(36)~~~~(37)~~ "Restaurant" means a facility where the usual and customary business is the  
 17 serving of meals to consumers, that has a bona fide kitchen facility, and that  
 18 receives at least fifty percent (50%) of its gross receipts from the sale of food.

19 ~~(37)~~~~(38)~~ "Retail container" means any bottle, can, barrel, or other container which,  
 20 without a separable intermediate container, holds alcoholic beverages and is  
 21 suitable and destined for sale to a retail outlet, whether it is suitable for delivery to  
 22 the consumer or not.

23 ~~(38)~~~~(39)~~ "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car,  
 24 club, and any facility where alcoholic beverages are sold directly to the consumers.

25 ~~(39)~~~~(40)~~ "Retail sale" means any sale where delivery is made in Kentucky to any  
 26 consumers.

27 ~~(40)~~~~(41)~~ "Retailer" means any person who sells at retail any alcoholic beverage for the



1 sale of which a license is required.

2 ~~(41)~~~~((42))~~ "Sale" means any transfer, exchange, or barter for consideration, and includes  
3 all sales made by any person, whether principal, proprietor, agent, servant, or  
4 employee, of any alcoholic beverage.

5 ~~(42)~~~~((43))~~ "~~Commissioner~~"~~"Secretary"~~ means the commissioner~~{secretary}~~ of the  
6 Kentucky Department of Revenue~~{Cabinet}~~.

7 ~~(43)~~~~((44))~~ "Service bar" means a bar, counter, shelving, or similar structure used for  
8 storing or stocking supplies of alcoholic beverages that is a workstation where  
9 employees prepare alcoholic beverage drinks to be delivered to customers away  
10 from the service bar. A service bar shall be located in an area where the general  
11 public, guests, or patrons are prohibited.

12 ~~(44)~~~~((45))~~ "Sell" includes solicit or receive an order for, keep or expose for sale, keep  
13 with intent to sell, and the delivery of any alcoholic beverage.

14 ~~(45)~~~~((46))~~ "Small winery" means a winery producing wines from grapes, other fruit, or  
15 honey produced in Kentucky, unless exempt under KRS 243.155(2), in an amount  
16 not to exceed fifty thousand (50,000) gallons in one (1) year.

17 ~~(46)~~~~((47))~~ "Souvenir package" means a special package of Kentucky straight bourbon  
18 whiskey available for retail sale at a licensed Kentucky distillery where the whiskey  
19 was produced or bottled that is available from a licensed retailer.

20 ~~(47)~~~~((48))~~ "State administrator" means the administrator of the Distilled Spirits Unit or  
21 the administrator of the Malt Beverage Unit, or both, as the context requires.

22 ~~(48)~~~~((49))~~ "Supplemental bar" means a bar, counter, shelving, or similar structure used  
23 for serving and selling distilled spirits or wine by the drink for consumption on the  
24 licensed premises to guests and patrons from additional locations other than the  
25 main bar. A supplemental bar shall be continuously constructed and accessible to  
26 patrons for distilled spirits or wine sales or service without physical separation by  
27 walls, doors, or similar structures.

1 ~~(49)~~~~(50)~~ "Vehicle" means any device or animal used to carry, convey, transport, or  
 2 otherwise move alcoholic beverages or any products, equipment, or appurtenances  
 3 used to manufacture, bottle, or sell these beverages.

4 ~~(50)~~~~(51)~~ "Vintner" means any person who owns, occupies, carries on, works, conducts,  
 5 or operates any winery, either by himself or by his agent, except persons who  
 6 manufacture wine for sacramental purposes exclusively.

7 ~~(51)~~~~(52)~~ "Warehouse" means any place in which alcoholic beverages are housed or  
 8 stored.

9 ~~(52)~~~~(53)~~ "Wholesale sale" means a sale to any person for the purpose of resale.

10 ~~(53)~~~~(54)~~ "Wholesaler" means any person who distributes alcoholic beverages for the  
 11 purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer  
 12 or cooperative of a retail outlet.

13 ~~(54)~~~~(55)~~ "Wine" means the product of the normal alcoholic fermentation of the juices  
 14 of fruits, with the usual processes of manufacture and normal additions, and  
 15 includes champagne and sparkling and fortified wine of an alcoholic content not to  
 16 exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and  
 17 perry cider and also includes preparations or mixtures vended in retail containers if  
 18 these preparations or mixtures contain not more than fifteen percent (15%) of  
 19 alcohol by volume. It includes ciders, perry, or sake having an alcohol content  
 20 greater than that permitted under subsection (2)(i) of this section.

21 ~~(55)~~~~(56)~~ "Winery" means any place or premises in which wine is manufactured from  
 22 any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials  
 23 are compounded. It includes a winery for the manufacture of wine in any state or  
 24 county other than Kentucky, if the out-of-state winery has and maintains a branch  
 25 factory, office, or storeroom within this state and receives wine within this state  
 26 consigned to a United States government bonded winery, warehouse, or storeroom  
 27 located within this state.

1       Section 646. KRS 241.020 is amended to read as follows:

- 2       (1) The department shall administer statutes relating to, and regulate traffic in,  
3       alcoholic beverages, except that the collection of taxes shall be administered by the  
4       Department of Revenue~~[Cabinet]~~.
- 5       (2) A distilled spirits unit, under the supervision of the board, shall administer the laws  
6       in relation to traffic in distilled spirits and wine.
- 7       (3) A malt beverage unit, under the supervision of the board, shall administer the laws  
8       in relation to traffic in malt beverages.

9       Section 647. KRS 243.180 is amended to read as follows:

- 10      (1) A distributor's license shall authorize the licensee to purchase malt beverages from  
11      Kentucky breweries or from out-of-state breweries or distributors licensed to do  
12      business by the state in which they are located, import a non-United States brand  
13      malt beverage from an importer or wholesaler registered with the Kentucky  
14      Department of Revenue~~[Cabinet]~~; or store malt beverages and to sell them only,  
15      from the licensed premises, to other distributors, to licensed retailers, to any of its  
16      employees for home consumption and also to charitable or fraternal organizations  
17      holding group meetings, picnics or outings.
- 18      (2) A distributor shall transport malt beverages only by a vehicle owned, rented or  
19      leased and operated by himself, which has affixed to its sides at all times a sign of  
20      form and size prescribed by the state board, containing among other things the name  
21      and license number of the licensee. No distilled spirits or wine shall be transported  
22      on the same truck or vehicle with malt beverages, except by a common carrier,  
23      unless the owner of such truck or vehicle holds a wholesaler's license.
- 24      (3) A distributor's license must be obtained for each separate warehouse, agent,  
25      distributor, broker, jobber or place of business from which orders are received or  
26      beverages are distributed unless it is a licensed brewery.

27      Section 648. KRS 243.200 is amended to read as follows:

- 1 (1) A distilled spirits and wine transporter's license shall authorize the licensee to  
2 transport distilled spirits and wine to or from the licensed premises of any licensee  
3 under KRS 243.020 to 243.670 if both the consignor and consignee in each case are  
4 authorized by the law of the states of their residence to sell, purchase, ship or  
5 receive the alcoholic beverages.
- 6 (2) A distilled spirits and wine transporter's license shall be issued only to persons  
7 authorized by proper certificate from the Department of Vehicle Regulation to  
8 engage in the business of common carrier.
- 9 (3) No person except a railroad company or railway express company shall transport or  
10 cause to be transported any distilled spirits or wine, unless expressly authorized to  
11 do so by law.
- 12 (4) Distilled spirits and wine may be transported by the holder of any license authorized  
13 by KRS 243.030 from and to express or freight depots to and from the premises  
14 covered by the license of the person so transporting distilled spirits or wine.
- 15 (5) A licensed alcoholic beverage store operator may move, within the same county,  
16 alcoholic beverages from one of the operator's licensed stores to another without a  
17 transporter's license. However, the licensed store operator shall keep and maintain,  
18 in one (1) of his or her stores in that county, adequate books and records of the  
19 transactions involved in transporting alcoholic beverages from one (1) licensed  
20 store to another in accordance with standards established in administrative  
21 regulations promulgated by the board. The records shall be available to the  
22 department and the Department of Revenue~~[Cabinet]~~ upon request.
- 23 (6) Distilled spirits and wine may be transported by the holder of any retail package or  
24 drink license issued under KRS 243.030 from the premises of a licensed wholesaler  
25 to the licensed premises of the retail licensee. Any retailer transporting alcoholic  
26 beverages under this subsection shall do so in a vehicle marked in conformity with  
27 administrative regulations of the department. Both the wholesaler and the retailer

engaging in activity under this subsection shall be responsible for maintaining records documenting the transactions.

Section 649. KRS 243.380 is amended to read as follows:

(1) Applications for licenses provided for in KRS 243.030 and 243.050 shall be made to the administrator of the distilled spirits unit. Applications for licenses provided for in KRS 243.040 shall be made to the administrator of the malt beverage unit.

(2) All applications shall be on forms furnished by the department. They shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as the board by regulation requires. Each application shall be accompanied by payment. Payment of the license fee may be by certified check, cash, a postal or express money order, or any other method of payment approved in writing by both the Finance and Administration Cabinet and the Office of the State Treasurer. Promptly upon receipt thereof the board shall pay the same into the State Treasury, giving the Department of Revenue~~[-Cabinet]~~ copies of the pay-in vouchers and such other supporting data as the Department of Revenue~~[-Cabinet]~~ may require for revenue control purposes.

Section 650. KRS 243.400 is amended to read as follows:

(1) Every applicant for a brewer's, distiller's, rectifier's, bottling house or vintner's license shall file with his application a bond to the state in the amount of one thousand dollars (\$1,000). The bond shall be on a form approved by the board and shall have corporate surety registered by the Department of Insurance. The applicant shall be the principal obligor and the state shall be the obligee. The bond shall be conditioned upon the prompt payment by the obligor to the Department of Revenue~~[-Cabinet]~~ of any and all state taxes, with penalties and interest. The applicant may file a continuing bond provided that each renewal application is accompanied by:

(a) An affidavit that the bond remains in force, and

1 (b) A copy of consent of surety.

2 An applicant for two (2) or more licenses of the same kind may file a blanket bond  
3 covering all of his operations. The amount of such a bond shall be the same as if  
4 separate bonds were furnished.

5 (2) Every applicant for a wholesaler's license shall file with his application a corporate  
6 surety bond to the state in the minimum amount of two thousand dollars (\$2,000) or  
7 an amount equal to three (3) times the monthly tax liability, whichever is less, and  
8 up to a maximum amount of twenty-five thousand dollars (\$25,000). It shall be  
9 sufficient, in the opinion of the board, which shall consider the financial reputation  
10 and rating of the applicant, to insure payment to the state of the amount of any and  
11 all taxes and penalties and interest for which the wholesaler may become liable. It  
12 shall be on a form to be approved by the board and with surety on the bond  
13 approved by the board. The applicant shall be the principal obligor and the state the  
14 obligee. The bond shall be conditioned upon the prompt payment by the wholesaler  
15 to the Department of Revenue~~[Cabinet]~~ of any and all state taxes, with penalties  
16 and interest.

17 Section 651. KRS 243.420 is amended to read as follows:

18 A suit to recover on any of the bonds mentioned in KRS 243.400 and 243.410 may be  
19 brought in the Franklin Circuit Court or in the circuit court of the county in which the  
20 licensed premises are located, in the name of the state, by the commissioner of the  
21 Department of Revenue~~[secretary of revenue]~~ or on relation of any party aggrieved. If the  
22 obligor named in the bond has violated any of the conditions of the bond, recovery of the  
23 penal sum of the bond may be had in favor of the state or of the party aggrieved; or  
24 judgment for tax, penalties and interest may be rendered in favor of the state.

25 Section 652. KRS 243.490 is amended to read as follows:

26 (1) Any license issued under KRS 243.020 to 243.670 may be revoked by the state  
27 board if the licensee shall have violated any of the provisions of KRS Chapter 241,

243, or 244, or any rule or regulation of the board or of the Department of Revenue~~[Cabinet]~~ relating to the regulation of the manufacture, sale, and transportation or taxation of alcoholic beverages or if the licensee shall have violated or shall violate any Act of Congress or any rule or regulation of any federal board, agency, or commission, or any ordinance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of any local alcoholic beverage authority or any similar body heretofore in existence or authorized by the terms of KRS Chapters 241, 243, and 244 to be created, or if any clerk, agent, servant, or employee of any licensee shall violate any of the laws, regulations, or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any license may be revoked for any cause which the Alcoholic Beverage Control Board in the exercise of its sound discretion deems sufficient. A license may be revoked for any of the reasons for which the administrator would have been required to refuse a license if the facts had been known.

- (2) If it is determined that an applicant for a license or license renewal under the provisions of this chapter is a delinquent taxpayer as defined in KRS 131.1815, the Department of Alcoholic Beverage Control may refuse to issue or renew the license to the applicant.

Section 653. KRS 243.490 is amended to read as follows:

- (1) Any license issued under KRS 243.020 to 243.670 may be revoked by the state board if the licensee shall have violated any of the provisions of KRS Chapter 241, 243, or 244, or any rule or regulation of the board or of the Department of Revenue~~[Cabinet]~~ relating to the regulation of the manufacture, sale, and transportation or taxation of alcoholic beverages or if the licensee shall have violated or shall violate any Act of Congress or any rule or regulation of any federal

1 board, agency, or commission, or any ordinance now, heretofore, or hereafter in  
 2 effect relating to the regulation of the manufacture, sale and transportation or  
 3 taxation of intoxicating liquors or any rules or regulations of any local alcoholic  
 4 beverage authority or any similar body heretofore in existence or authorized by the  
 5 terms of KRS Chapters 241, 243, and 244 to be created, or if any clerk, agent,  
 6 servant, or employee of any licensee shall violate any of the laws, regulations, or  
 7 ordinances above referred to, irrespective of whether the licensee knew of or  
 8 permitted the violation or whether the violation was committed in disobedience of  
 9 his instructions, or any license may be revoked for any cause which the Alcoholic  
 10 Beverage Control Board in the exercise of its sound discretion deems sufficient. A  
 11 license may be revoked for any of the reasons for which the administrator would  
 12 have been required to refuse a license if the facts had been known.

13 (2) If it is determined that an applicant for a license or license renewal under the  
 14 provisions of this chapter is a delinquent taxpayer as defined in KRS 131.1815, the  
 15 Department of Alcoholic Beverage Control may refuse to issue or renew the license  
 16 to the applicant.

17 Section 654. KRS 243.500 is amended to read as follows:

18 Any license issued under KRS 243.020 to 243.670 may be revoked or suspended for the  
 19 following causes:

- 20 (1) Conviction of the licensee or his agent or employee for selling any illegal beverages  
 21 on the licensed premises.
- 22 (2) Making any false, material statements in an application for a license or  
 23 supplemental license.
- 24 (3) Violation of the provisions of KRS 243.670.
- 25 (4) Conviction of the licensee or any of his clerks, servants, agents, or employees of:
  - 26 (a) Two (2) violations of the terms and provisions of KRS Chapter 241, 243, or  
 27 244 or any act regulating the manufacture, sale, and transportation of alcoholic



- 1           beverages within two (2) consecutive years;
- 2       (b) Two (2) misdemeanors directly or indirectly attributable to the use of
- 3           intoxicating liquors within two (2 ) consecutive years; or
- 4       (c) Any felony.
- 5   (5) Failure or default of a licensee to pay an excise tax or any part of the tax or any
- 6       penalties imposed by or under the provisions of any statutes, ordinances, or Acts of
- 7       Congress relative to taxation, or for a violation of any administrative regulations
- 8       promulgated by the Department of Revenue~~[Cabinet]~~ made in pursuance thereof.
- 9   (6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600,
- 10       and 243.610, or granted under any Act of Congress relative to the regulation of the
- 11       manufacture, sale, and transportation of alcoholic beverages. Any license issued
- 12       under KRS 243.020 to 243.670 shall be revoked or suspended if the licensee sells
- 13       the alcoholic beverages at a price in excess of the price set by federal or state
- 14       regulations.
- 15   (7) Setting up, conducting, operating, or keeping, on the licensed premises, any
- 16       gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or
- 17       facility for betting or transmitting bets on horse races; or permitting to be set up,
- 18       conducted, operated, kept, or engaged in, on the licensed premises, any such game,
- 19       device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This
- 20       section shall not apply to contests in which eligibility to participate is determined by
- 21       chance and the ultimate winner is determined by skill and the licensee has no direct
- 22       interest, or to the sale of lottery tickets sold under the provisions of KRS Chapter
- 23       154A.
- 24   (8) Conviction of the licensee, his agents, servants, or employees for:
- 25       (a) The sale or use upon the licensed premises of those items described in KRS
- 26           218A.050 to 218A.130 as controlled substances;
- 27       (b) Knowingly permitting the sale or use by patrons upon the licensed premises of

1           those items described in KRS 218A.050 to 218A.130 as controlled  
2           substances; or

3           (c) Knowingly receiving stolen property upon the licensed premises.

4           Section 655. KRS 243.630 is amended to read as follows:

5           (1) For purpose of this section, "transfer" means:

6           (a) The transfer to a new person or entity of ten percent (10%) or more ownership  
7           interest in any license issued under KRS 243.020 to 243.670; or

8           (b) The transfer in bulk, and not in the ordinary course of business, of a major part  
9           of the fixtures, materials, supplies, merchandise, or other inventory of a  
10          licensee's business.

11          (2) Any license issued under KRS 243.020 to 243.670 to any person for any licensed  
12          premises shall not be transferable or assignable to any other person or to any other  
13          premises or to any other part of the building containing the licensed premises,  
14          unless a transfer or assignment is authorized by the state administrator in the  
15          exercise of his sound discretion under KRS 243.640 or 243.650. For the purposes of  
16          this section, each railroad dining car shall be deemed premises to be separately  
17          licensed.

18          (3) A licensee shall not acquire or otherwise dispose of any interest in a licensed  
19          premises or any license issued by the department, by sale of assets, stock, inventory,  
20          control or right of control, or activities on the licensed premises without prior  
21          approval of the state administrator. The state administrator shall grant approval if  
22          the person acquiring the interest meets the qualifications for a new applicant.

23          (4) Any acquisition of interest in a license without prior authorization shall be void.

24          (5) All applications for approval of a transfer shall be made in writing to the state  
25          administrator having jurisdiction over the license.

26          (6) Applications for approval of a transfer shall be made under oath or affirmation,  
27          shall be signed by both the transferor and the transferee, and shall contain such

- 1 other information as the department may prescribe.
- 2 (7) The appropriate state administrator shall grant or deny the application within sixty  
3 (60) days of the date the application is substantially complete or on a later date that  
4 is mutually acceptable to the administrator and the transferee, but it shall not be  
5 acted upon before the end of the public protest period outlined in KRS 243.360.
- 6 (8) No licensee or other person seeking to acquire an interest in an existing license shall  
7 transfer control or assume control of any licensed premises by agreement or  
8 otherwise without the written consent of the state malt beverage administrator or the  
9 state distilled spirits administrator or both.
- 10 (9) A licensee shall not transfer his or her license or any interest in the license while  
11 any proceedings against the license or the licensee for a violation of any statute or  
12 regulation which may result in the suspension or revocation of the license are  
13 pending.
- 14 (10) A licensee shall not transfer his or her license or any interest he or she has in the  
15 license if the licensee owes a debt on the inventory to a wholesaler responsible for  
16 the collection and payment of the tax imposed under KRS 243.884.
- 17 (11) A licensee shall not transfer his or her license or any interest in the license if the  
18 licensee owes the Commonwealth of Kentucky for taxes as defined in KRS  
19 243.500(5). A transfer shall not take place until the department is notified by the  
20 Kentucky Department of Revenue~~[Cabinet]~~ that the licensee's indebtedness has  
21 been paid or resolved to the~~[cabinet's]~~ satisfaction of the Department of Revenue.  
22 This section shall not prohibit a transfer of a license or an interest in a license by a  
23 trustee in bankruptcy if all other requirements of this section are met.
- 24 Section 656. KRS 243.710 is amended to read as follows:
- 25 Each wholesaler shall pay to the Department of Revenue~~[cabinet]~~ five cents (\$0.05) per  
26 case on each case of distilled spirits sold by him in the state. This tax shall be computed  
27 each month according to the report required to be filed by KRS 243.850 and shall be paid

1 on or before the date in each succeeding month when reports are required to be filed.

2 Section 657. KRS 243.730 is amended to read as follows:

- 3 (1) (a) Wholesalers of distilled spirits and wine shall pay and report the tax levied by  
 4 KRS 243.720(1) and (2) on or before the twentieth day of the calendar month  
 5 next succeeding the month in which possession or title of the distilled spirits  
 6 and wine is transferred from the wholesaler to retailers or consumers in this  
 7 state, in accordance with rules and regulations of the Department of Revenue~~Cabinet~~  
 8 ~~Cabinet~~ designed reasonably to protect the revenues of the Commonwealth.
- 9 (b) Distributors or retailers of malt beverages, who purchase malt beverages  
 10 directly from a brewer, shall pay and report the tax levied by KRS 243.720(3)  
 11 on or before the twentieth day of the calendar month next succeeding the  
 12 month in which the brewer sells, transfers, or passes title of the malt beverage  
 13 to the distributor or retailer, in accordance with rules and regulations of the  
 14 Department of Revenue~~Cabinet~~ designed reasonably to protect the revenues  
 15 of the Commonwealth. The credit allowed brewers in this state, under the  
 16 provisions of KRS 243.720(3)(b), shall flow through to the distributor or  
 17 retailer who purchases malt beverages directly from the brewer. If a brewer  
 18 sells, transfers, or passes title to malt beverages to any of its employees for  
 19 home consumption or to any charitable or fraternal organization pursuant to  
 20 the provisions of KRS 243.150, the brewer shall be responsible for paying and  
 21 reporting the tax levied by KRS 243.720(3) in accordance with the provisions  
 22 of subsection (c) of this section.
- 23 (c) Every brewer selling, transferring, or passing title to malt beverages to any  
 24 person in this state other than a distributor or retailer, and every other person  
 25 selling, transferring, or passing title of distilled spirits, wine, or malt  
 26 beverages to distributors, retailers, or consumers shall report and pay the tax  
 27 levied by KRS 243.720(1), (2), or (3) on or before the twentieth day of the

1           calendar month next succeeding the month in which possession or title of  
 2           distilled spirits, wine, or malt beverages is transferred to a distributor, retailer,  
 3           or consumer in this state, in accordance with rules and regulations of the  
 4           *Department of Revenue*~~[Cabinet]~~ designed reasonably to protect the revenues  
 5           of the Commonwealth.

6           (d) Every distributor, retailer, or consumer possessing, using, selling, or  
 7           distributing distilled spirits, wine, or malt beverages in this state upon which  
 8           the tax levied by KRS 243.720(1), (2), or (3) and KRS 243.884 has not been  
 9           paid shall be jointly and severally liable for reporting and paying the tax due,  
 10          in accordance with rules and regulations of the *Department of Revenue*~~[Cabinet]~~  
 11          designed reasonably to protect the revenues of the Commonwealth.  
 12          Such liability shall not be extinguished until the tax has been paid to the  
 13          *Department of Revenue*~~[Cabinet]~~.

14          (e) Notwithstanding the provisions of subsection 1(a) of this section, every owner  
 15          of a farm winery shall pay and report the tax levied by KRS 243.720 (1) and  
 16          (2) on a quarterly basis, in accordance with administrative regulations of the  
 17          *Department of Revenue*~~[Cabinet]~~ designed reasonably to protect the revenues  
 18          of the Commonwealth.

19          (2) Every wholesaler of distilled spirits or wine before using, selling, or distributing by  
 20          sale or gift distilled spirits and wine shall qualify with the *Department of Revenue*~~[Cabinet]~~.  
 21          In order to so qualify, each wholesaler shall furnish to the *Department of*  
 22          *Revenue*~~[Cabinet]~~ a certified copy of the bond required to be filed with the Cabinet  
 23          of Alcoholic Beverage Control under the provisions of KRS 243.400(2).

24          (3) Notwithstanding the provisions of KRS 243.400(1), every brewer before selling or  
 25          distributing by sale or gift malt beverages, or before importing malt beverages into  
 26          the state, shall qualify with the *Department of Revenue*~~[Cabinet]~~ in such manner as  
 27          the *department*~~[cabinet]~~ may require.

1 (4) The department~~[cabinet]~~ shall have the power to require a bond from any other  
 2 person liable for Kentucky distilled spirits, wine, or malt beverage taxes provided  
 3 such person is not otherwise required to post a bond under the provisions of this  
 4 section. The amount of the bond for persons liable for Kentucky distilled spirits or  
 5 wine taxes shall be computed as provided in KRS 243.400(2). The amount of the  
 6 bond for persons liable for Kentucky malt beverage taxes shall be in the minimum  
 7 amount of one thousand dollars (\$1,000) or an amount equal to three (3) times the  
 8 person's average monthly Kentucky malt beverage tax liability, whichever is greater.  
 9 The bond shall be on a form prescribed by the department~~[cabinet]~~ and have  
 10 corporate surety registered by the Department of Insurance. The person liable for  
 11 the tax shall be the principal obligor and the state the obligee. The bond shall be  
 12 conditioned upon the prompt payment by the person to the Department of Revenue~~[~~  
 13 ~~Cabinet]~~ of all malt beverage taxes due, with penalties and interest.

14 Section 658. KRS 243.790 is amended to read as follows:

15 The sale or distribution of alcoholic beverages manufactured in or imported into this state  
 16 for shipment permanently out of the state to be sold through retail outlets without the  
 17 state and consumed without the state shall not be subject to the tax imposed by KRS  
 18 243.720. Provided, however, the Department of Revenue~~[cabinet]~~ may, when necessary  
 19 for the purpose of control enforcement or protection of revenue, prescribe the conditions  
 20 under which containers of such alcoholic beverages for shipment permanently out of the  
 21 state to be sold through retail outlets without the state and consumed without the state  
 22 may be kept and trafficked in without payment of the tax.

23 Section 659. KRS 243.850 is amended to read as follows:

24 For the purpose of assisting in the enforcement of KRS 243.720 to 243.850 and 243.884  
 25 or any amendments thereof, every licensee, except retailers, whether subject to the  
 26 payment of taxes imposed by said sections or any amendments thereof, shall, on or before  
 27 the twentieth day of each month, render to the Department of Revenue~~[Cabinet]~~ a

1 statement, in writing, of all his trafficking in alcoholic beverages during the preceding  
 2 month. Such statement shall be taken directly from the records of the reporting licensee,  
 3 and shall set forth on forms furnished by the Department of Revenue~~[-Cabinet]~~ such  
 4 information as shall be required by it. Such statement shall include alcohol destined for  
 5 sale outside the state, as well as alcoholic beverages subject to the tax imposed by KRS  
 6 243.720 to 243.850 and 243.884 or any amendments thereof. Provided, that the  
 7 Department of Revenue~~[-Cabinet]~~ shall have authority to require from retail licensees and  
 8 other licensees, other reports and statements at such times as are necessary for the  
 9 enforcement of KRS 243.720 to 243.850 and 243.884 or any amendments thereof.

10 Section 660. KRS 243.884 is amended to read as follows:

- 11 (1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine,  
 12 or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and  
 13 distilled spirits at the rate of nine percent (9%) and upon all distributors of beer at  
 14 the rate of nine percent (9%) of the gross receipts of any such wholesaler or  
 15 distributor derived from "sales at wholesale" or "wholesale sales" made within the  
 16 Commonwealth except as provided in subsection (2) of this section. Wholesalers of  
 17 distilled spirits and wine and distributors of malt beverages shall pay and report the  
 18 tax levied by this section on or before the 20th day of the calendar month next  
 19 succeeding the month in which possession or title of the distilled spirits, wine or  
 20 malt beverages is transferred from the wholesaler or distributor to retailers or  
 21 consumers in this state, in accordance with rules and regulations of the Department  
 22 of Revenue~~[-Cabinet]~~ designed reasonably to protect the revenues of the  
 23 Commonwealth.
- 24 (2) Gross receipts from sales at wholesale or wholesale sales shall not include the  
 25 following sales:
- 26 (a) Sales made between wholesalers or between distributors;
- 27 (b) Sales made by a small winery or farm winery or wholesaler of wine produced

1 by a small winery or farm winery, if the grapes, grape juice, other fruits, other  
 2 fruit juices, or honey from which the wine is made are produced in Kentucky;

3 (c) Until June 30, 2004, sales from a small winery or wholesaler of wine  
 4 produced by a small winery, if the grapes, grape juice, other fruits, other fruit  
 5 juices, or honey from which the wine is made are not produced in Kentucky.

6 Section 661. KRS 244.150 is amended to read as follows:

7 (1) Each licensee under KRS 243.020 to 243.670 shall keep and maintain upon the  
 8 licensed premises, or make readily available upon request of the department or the  
 9 Department of Revenue~~[Cabinet]~~, adequate books and records of all transactions  
 10 involved in the manufacture or sale of alcoholic beverages, in the manner required  
 11 by regulations of the department and the Department of Revenue~~[Cabinet]~~.

12 (2) The commissioner may require common carriers to provide information in such  
 13 form as he or she deems wise respecting all shipments of alcoholic beverages to,  
 14 from, or between persons in Kentucky.

15 Section 662. KRS 247.910 is amended to read as follows:

16 For purposes of KRS 247.900 to 247.920:

17 (1) "Alcohol production facility" shall mean and include any property or any facility  
 18 which is not fueled by petroleum but fueled by Kentucky coal, or in the process of  
 19 converting to the use of coal with the completion date to be in two (2) years or less,  
 20 and designed, installed, or constructed as a component part of any commercial or  
 21 industrial premises for the primary purpose of producing ethanol derived from  
 22 agricultural products or by-products for use as a motor fuel;

23 (2) "Gasohol" means a fuel containing a mixture of gasoline and at least ten percent  
 24 (10%) ethanol which is at least one hundred ninety-eight (198) proof for use in  
 25 motor vehicles;

26 (3) "Alcohol production tax exemption certificate" shall mean that certificate issued by  
 27 the Department of Revenue~~[Cabinet]~~ pursuant to KRS 247.920; and



- (4) "Ethanol" means ethyl alcohol produced from grain or other agricultural products or by-products for use as a motor fuel.

Section 663. KRS 247.920 is amended to read as follows:

- (1) Application for an alcohol production exemption certificate shall be filed with the Department of Revenue~~[Cabinet]~~ in such manner and in such form as may be prescribed by regulations issued by the Department of Revenue~~[Cabinet]~~ and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the Department of Revenue~~[Cabinet]~~ for the proper administration of KRS 247.910 and this section.

The Kentucky Coal Council shall provide technical assistance and factual information as requested in writing by the Department of Revenue~~[Cabinet]~~. If the Department of Revenue~~[Cabinet]~~ finds that the facility qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.

- (2) Before issuing an alcohol production tax exemption certificate, the Department of Revenue~~[Cabinet]~~ shall give notice in writing by mail to the Kentucky Coal Council, and shall afford to the applicant and to the Kentucky Coal Council an opportunity for a hearing. On like notice and opportunity for a hearing, the Department of Revenue~~[Cabinet]~~ shall on its own initiative revoke the certificate when any of the following appears:

- (a) The certificate was obtained by fraud or misrepresentation;
- (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the alcohol production facilities; or

- 1 (c) The structure or equipment or both to which the certificate relates has ceased  
2 to be used for the primary purpose of alcohol production for fuel use and is  
3 being used for a different purpose.
- 4 (3) If the circumstances so require, the Department of Revenue~~[-Cabinet]~~, in lieu of  
5 revoking the certificate, may modify it.
- 6 (4) On mailing of notice of the action of the Department of Revenue~~[-Cabinet]~~  
7 revoking or modifying a certificate as provided in subsection (5) of this section, the  
8 certificate shall cease to be in force or shall remain in force only as modified as the  
9 case may require.
- 10 (5) An alcohol production tax exemption certificate, when issued, shall be sent by  
11 certified mail to the applicant and the notice of issuance in the form of certified  
12 copies thereof shall be sent to the Kentucky Coal Council. Notice of an order of the  
13 Department of Revenue~~[-Cabinet]~~ denying, revoking, or modifying a certificate in  
14 the form of certified copies thereof shall be sent by certified mail to the applicant or  
15 the holder and shall be sent to the Kentucky Coal Council. The applicant or holder  
16 and the Kentucky Coal Council shall be deemed parties for the purpose of the  
17 review afforded by subsection (6) of this section.
- 18 (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of  
19 an alcohol production tax exemption certificate may appeal from the final ruling of  
20 the Department of Revenue~~[-Cabinet]~~ to the Kentucky Board of Tax Appeals as  
21 provided in KRS 131.340.
- 22 (7) In the event of the sale, lease, or other transfer of an alcohol production facility, not  
23 involving a different location or use, the holder of an alcohol production tax  
24 exemption certificate for the facility may transfer the certificate by written  
25 instrument to the person who, except for the transfer of the certificate, would be  
26 obligated to pay taxes on the facility. The transferee shall become the holder of the  
27 certificate and shall have all rights pertaining thereto, effective as of the date of

1 transfer of the certificate. The transferee shall give written notice of the effective  
 2 date of the transfer, together with a copy of the instrument of transfer to the  
 3 Kentucky Coal Council and the Department of Revenue~~[Cabinet]~~.

4 (8) In the event an alcohol production facility for which an exemption certificate is held  
 5 ceases to be used for the primary purpose of alcohol production for fuel use or is  
 6 used for a different purpose other than that for which the exemption certificate was  
 7 granted, the holder of the certificate shall give written notice by certified mail of the  
 8 change to the Kentucky Coal Council and to the Department of Revenue~~[Cabinet]~~.

9 (9) The alcohol production facility exemption certificate, upon approval, shall exempt  
 10 said facilities from taxes outlined in the provisions of KRS 247.910 and this section  
 11 and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate  
 12 shall remain in force for a period of eight (8) years from the date of issuance and at  
 13 the end of said period shall lapse. Any alcohol production facility previously  
 14 exempted under the terms of KRS 247.910 and this section shall not be eligible for  
 15 recertification upon completion of the eight (8) year certificate period.

16 Section 664. KRS 247.946 is amended to read as follows:

17 The corporation shall have all of the powers necessary or convenient to carry out and  
 18 effectuate the purposes and provisions of KRS 247.940 to 247.978 including, but without  
 19 limiting the generality of the foregoing, the power:

20 (1) To adopt bylaws for the regulation of its affairs and the conduct of its business and  
 21 to prescribe rules, administrative regulations, and policies in connection with the  
 22 performance of its functions and duties;

23 (2) To review the projects authorized to be financed by KRS 247.940 to 247.978 in  
 24 order to determine the following:

25 (a) The qualifications of the applicant as a party entitled to financing assistance  
 26 under the provisions of KRS 247.940 to 247.978 and the rules and  
 27 administrative regulations of the corporation;

- 1 (b) The qualifications of the applicant in the areas of experience, training, and  
2 financial ability in relation to the project for which assistance is sought and  
3 any other areas as the corporation shall determine necessary and desirable in  
4 implementing the intent of KRS 247.940 to 247.978 in the promotion of  
5 agriculture throughout the Commonwealth. Analysis shall include a careful  
6 evaluation of character, experience, record, and prospects for sound financial  
7 management and sound operation of the project. Financial ability factors to be  
8 considered shall include the applicant's total assets controlled, equity owned,  
9 contingent liabilities, history of earnings to date, and repayment capacity, as  
10 well as other factors set by the corporation. Consideration may be given to the  
11 special needs of beginning farmers;
- 12 (c) The economic need for the project in the area based upon general economic  
13 conditions and unemployment in the region;
- 14 (d) The economic soundness of the project based upon generally accepted cost-  
15 benefit methodology; and
- 16 (e) Consistency of the project with other policies of the Commonwealth designed  
17 to ensure a sustained land base for agriculture including preservation of prime  
18 farmland and promotion of soil conservation techniques for protection of  
19 farmland;
- 20 (3) To issue from time to time bonds, notes, bond anticipation notes, renewal notes,  
21 refunding bonds, interim certificates, certificates of indebtedness, debentures,  
22 warrants, commercial paper, or other obligations or evidence of indebtedness,  
23 hereinafter collectively referred to as "bonds" or "notes," to provide funds for and to  
24 fulfill and achieve its authorized public functions or corporate purposes, as set forth  
25 in the provisions of KRS 247.940 to 247.978; and in addition to the powers  
26 conferred hereunder, to have all the authority delegated to cities and counties  
27 pursuant to the provisions of KRS 103.200 to 103.285; provided, however, that

1 bonds or notes issued by the corporation shall not be subject to the jurisdiction or  
 2 approval of the Industrial Revenue Bond Oversight Committee or the State Property  
 3 and Buildings Commission but shall be subject to the review of the Office of  
 4 Financial Management *in the Office of the Controller within the Finance and*  
 5 *Administration Cabinet;*

- 6 (4) To make or participate in the making of insured mortgage loans to qualified  
 7 applicants for the purpose of purchasing agricultural real estate and improvements;
- 8 (5) To purchase or participate in the purchase of mortgage loans made to qualified  
 9 applicants for the purpose of purchasing agricultural real estate and improvements;
- 10 (6) To make or participate in the making of loans to qualified applicants for the purpose  
 11 of purchasing machinery, equipment, and livestock;
- 12 (7) To purchase or participate in the purchase of loans to qualified applicants for the  
 13 purpose of purchasing machinery, equipment, and livestock;
- 14 (8) To make or participate in the making or to purchase or participate in the purchase of  
 15 loans to qualified applicants for the purpose of leasing equipment, introducing new  
 16 agricultural commodities or enhancing agricultural markets;
- 17 (9) To collect and pay reasonable fees and charges in connection with making,  
 18 purchasing, and servicing its loans, notes, bonds, commitments, and other evidences  
 19 of indebtedness;
- 20 (10) To acquire real and personal property, or any interest therein, by purchase,  
 21 foreclosure, lease, sublease, or otherwise; to own, manage, and operate real and  
 22 personal property; to sell, assign, exchange, transfer, convey, lease, mortgage, or  
 23 otherwise dispose of or encumber real and personal property where necessary or  
 24 appropriate to the purposes of the corporation subject to the rights of holders of the  
 25 bonds of the corporation, at public or private sale, with or without public bidding;
- 26 (11) To sell, at public or private sale, all or any part of any real estate mortgage or chattel  
 27 mortgage or other instrument or document securing any loan permitted by KRS

- 1       247.940 to 247.978;
- 2       (12) To procure insurance against any loss in connection with its operations in the  
3       amounts and from any insurers, as it may deem necessary or desirable;
- 4       (13) To consent, whenever the corporation deems necessary or desirable in the  
5       fulfillment of its corporate purposes, to the modification of interest rates, time of  
6       payment of principal or interest, or any other terms of any loan, contract, or  
7       agreement of any kind to which the corporation is a party;
- 8       (14) To include in any borrowing those amounts deemed necessary by the corporation to  
9       pay financing charges, capitalized interest, consultant, advisory, and legal fees and  
10      any other expenses necessary or incident to any borrowing;
- 11      (15) To make and publish administrative regulations respecting its lending programs and  
12      any other rules and regulations as are necessary to effectuate its corporate purposes;
- 13      (16) To make, execute, and effectuate any and all agreements or other documents with  
14      any governmental agency or any person, corporation, association, partnership, or  
15      other organization or entity, necessary to accomplish the purposes of KRS 247.940  
16      to 247.978;
- 17      (17) To accept gifts, devises, bequests, grants, loans, appropriations, and other assistance  
18      and any other aid from any source whatsoever and to agree to and to comply with  
19      conditions attached thereto;
- 20      (18) To sue and be sued in its own name and in the name of any subsidiary corporation  
21      or entity which may be created pursuant to subsection (28) of this section;
- 22      (19) To maintain an office in the city of Frankfort and at any other place or places as it  
23      may determine;
- 24      (20) To employ fiscal consultants, engineers, attorneys, appraisers, and such other agents  
25      and employees as may be required in the judgment of the corporation and to fix and  
26      pay their compensation from funds available to the corporation therefor;
- 27      (21) To invest any funds held in sinking funds, reserve funds, or trust fund accounts or

- 1 any moneys not required for immediate disbursement by the corporation in:
- 2 (a) Obligations of or guaranteed by the Commonwealth, United States of America
- 3 or their respective agencies and instrumentalities;
- 4 (b) Certificates of deposit and other evidences of deposit at state and federal
- 5 chartered banks and savings and loan associations, fully collateralized as to
- 6 any principal amount in excess of the amount insured by the United States
- 7 government or any agency thereof;
- 8 (c) A guaranteed investment or similar contract, which provides for the
- 9 investment of funds at a guaranteed rate of return, with an insurance company
- 10 or depository financial institution with a claim paying rating of no less than
- 11 either of the two (2) highest grades given by a nationally recognized rating
- 12 agency; and
- 13 (d) Any other investment authorized by law for the investment of funds of the
- 14 Commonwealth;
- 15 (22) Subject to the rights of holders of bonds of the corporation, to renegotiate,
- 16 refinance, or foreclose on any mortgage, security interest, or lien; or commence any
- 17 action to protect or enforce any right or benefit conferred upon the corporation by
- 18 any law, mortgage, security interest, lien, contract, or other agreement; and bid for
- 19 and purchase property at any foreclosure or at any other sale or otherwise acquire or
- 20 take possession of any property; and in any such event, the corporation may
- 21 complete, administer, pay the principal of and interest on any obligation incurred in
- 22 connection with the property, dispose of and otherwise deal with the property in any
- 23 manner as may be necessary or desirable to protect the interest of the corporation or
- 24 of holders of its bonds therein;
- 25 (23) To insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured,
- 26 agricultural loans, mortgage loans, or mortgages, or any other type of loans, and pay
- 27 or receive premiums on insurance, coinsurance, or reinsurance, and establish

1 reserves for losses, and participate in the insurance, coinsurance, or reinsurance of  
 2 agricultural loans, mortgage loans or mortgages, or any other type of loans with the  
 3 federal or state government or any private insurance company;

4 (24) To undertake and carry out or authorize the completion of studies and analyses of  
 5 agricultural conditions and needs within the Commonwealth and needs relating to  
 6 the promotion of agricultural exports and ways of meeting the needs, and make the  
 7 studies and analyses available to the public and to the agricultural industry, and to  
 8 engage in research or disseminate information on agriculture and agricultural  
 9 exports;

10 (25) To accept federal, state, or private financial or technical assistance and comply with  
 11 any conditions for assistance, provided that those conditions are not in conflict with  
 12 the intent of the provisions of KRS 247.940 to 247.978;

13 (26) To purchase, discount, sell, negotiate and guarantee, insure, co-insure and reinsure  
 14 notes, drafts, checks, bills of exchange, acceptances, bankers' acceptances, cable  
 15 transfers, letters of credit, and other evidence of indebtedness;

16 (27) To serve as the beneficiary of any public trust; and

17 (28) To create such subsidiary corporations or entities as may be necessary to borrow  
 18 money, insure or reinsure agricultural loans, or issue bonds.

19 Section 665. KRS 248.705 is amended to read as follows:

20 (1) Forty million dollars (\$40,000,000) of the moneys credited to the agricultural  
 21 development fund as set out in KRS 248.703(1)(a) shall be set aside to supplement  
 22 Phase II on April 26, 2000. Additional funds shall be set aside to supplement Phase  
 23 II funding as needed from moneys credited to the agricultural development fund  
 24 after June 30, 2000.

25 (2) Phase II payments shall be supplemented each year for tobacco growers and quota  
 26 owners so that the total amount available for payment is maintained at one hundred  
 27 fourteen million dollars (\$114,000,000) each year. If the Phase II supplement set



1       aside referred to in subsection (1) of this section falls below the amount needed to  
2       reach the one hundred fourteen million dollar (\$114,000,000) level in any year  
3       before the end of the twelve (12) year Phase II funding program, procedures  
4       outlined in subsection (3) of this section shall be followed.

5       (3) (a) If the moneys set aside for Phase II supplement before June 30, 2000, become  
6       insufficient to continue to meet the yearly one hundred fourteen million dollar  
7       (\$114,000,000) funding level, moneys needed to supplement Phase II funding  
8       to maintain funding at the 1999 level of one hundred fourteen million dollars  
9       (\$114,000,000) per year for each of the remaining eleven (11) years of the  
10      Phase II funding program shall continue to be provided to the Phase II set  
11      aside from funds received in the tobacco settlement agreement fund after June  
12      30, 2000. As Master Settlement Agreement funding becomes available after  
13      June 30, 2000, for calendar year 2001 and each year thereafter for the life of  
14      the Phase II payment program, the moneys needed for the Phase II supplement  
15      to assure availability of the one hundred fourteen million dollar  
16      (\$114,000,000) funding level for that year shall be taken from the agricultural  
17      development fund. When a determination is made that funds are needed, funds  
18      shall be taken from the agricultural development fund before any other  
19      distributions are made following the next master settlement payment in April  
20      of each year. On the last year of distribution of the Phase II supplement funds,  
21      any excess funds beyond those needed to reach the one hundred fourteen  
22      million dollar (\$114,000,000) level shall be returned to the agricultural  
23      development fund.

24      (b) Notwithstanding the provisions of paragraph (a) of this subsection, if the  
25      moneys required to supplement the Phase II funding at the one hundred  
26      fourteen million dollar (\$114,000,000) level are less than twenty million  
27      dollars (\$20,000,000) in a year, the amount shall be deferred to a later year

1           until at least a deficit of twenty million dollars (\$20,000,000) is achieved  
2           before supplement payments are made.

3   (4) The Tobacco Settlement Trust Corporation created in KRS 248.480 shall provide  
4       for distribution of the Phase II supplement funds. The corporation shall use the  
5       same formula and process for distribution of the Phase II supplement funds as it  
6       uses for distributions under the regular Phase II payment program, except that the  
7       corporation shall send the list of supplement payment recipients to the Department  
8       of Revenue~~[Cabinet]~~ rather than to the trustee of the National Tobacco Grower  
9       Settlement Trust. The Department of Revenue~~[Cabinet]~~ shall process the  
10      information and issue the checks at no charge to the Agricultural Development  
11      Board. The Phase II supplement funds shall be identified as supplement funds when  
12      distributed to tobacco growers and quota owners.

13      Section 666. KRS 248.750 is amended to read as follows:

14      As used in KRS 138.146 and 248.750 to 248.769:

- 15   (1) "Department~~[Cabinet]~~" means the Department of Revenue~~[Cabinet]~~;
- 16   (2) "Cigarettes" means cigarettes as defined in KRS 138.130;
- 17   (3) "Importer" means an importer as defined in 26 U.S.C. sec. 5702(1);
- 18   (4) "Manufacturer" means any person who manufactures or produces cigarettes within  
19      or without the Commonwealth;
- 20   (5) "Master settlement agreement" means the settlement agreement (and related  
21      documents) entered into on November 23, 1998, by Kentucky and leading United  
22      States tobacco product manufacturers;
- 23   (6) "Package" means package as is defined in 15 U.S.C. sec. 1332(4); and
- 24   (7) "Person" means person as defined in KRS 446.010.

25      Section 667. KRS 262.765 is amended to read as follows:

- 26   (1) The board of directors of a watershed conservancy district shall prepare and furnish  
27      to the property valuation administrator by January 1 each year a list of the

landowners in each county involved showing the real property subject to assessment, and the property valuation administrator of the county or counties involved shall indicate, for the use of the clerk, such information on the tax rolls. The list furnished the property valuation administrator by the board of directors shall: list the landowners in alphabetical order by taxing districts as shown on the previous year's tax roll, list the total acreage and the acreage in the watershed conservancy district owned by each landowner, and show that part of the previous year's assessment attributable to real property within the watershed conservancy district on those parcels which are not entirely within the district.

(2) When the property tax rolls are delivered to the county clerk by the property valuation administrator, as required by law, the county clerk shall compute the tax due the district from each landowner in accordance with the rate fixed by the board of directors and the value or acreage of the real property indicated on the tax roll. The computation shall be made on the regular tax bills in such manner as may be directed by regulation of the Department of Revenue~~[Cabinet]~~.

Section 668. KRS 271B.14-220 is amended to read as follows:

(1) A corporation administratively dissolved under KRS 271B.14-210, or revoked under the provisions of KRS 271A.615, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution or revocation. The application shall:

- (a) Recite the name of the corporation and the effective date of its administrative dissolution or revocation;
- (b) State that the ground or grounds for dissolution or revocation either did not exist or have been eliminated;
- (c) State that the corporation's name satisfies the requirements of KRS 271B.4-010;
- (d) Contain a certificate from the Department of Revenue~~[Cabinet]~~ reciting that

1 all taxes owed by the corporation have been paid; and

2 (e) Be accompanied by the reinstatement penalty and the current fee for filing  
3 each delinquent annual report provided for in KRS 271B.1-220.

4 (2) If the Secretary of State determines that the application contains the information  
5 required by subsection (1) of this section and that the information is correct, he shall  
6 cancel the certificate of dissolution or revocation and prepare a certificate of  
7 existence that recites his determination and the effective date of reinstatement, file  
8 the original of the certificate, and serve a copy on the corporation by mailing the  
9 notice by first class mail to the corporation at its registered office.

10 (3) When the reinstatement is effective, it shall relate back to and take effect as of the  
11 effective date of the administrative dissolution or revocation and the corporation  
12 shall resume carrying on its business as if the administrative dissolution or  
13 revocation had never occurred.

14 (4) Notwithstanding any other provision to the contrary, any corporation which was  
15 administratively dissolved or revoked and has taken the action necessary to wind up  
16 and liquidate its business and affairs under KRS 271B.14-050, and notify claimants  
17 under KRS 271B.14-060 and 271B.14-070, shall be prohibited from reinstatement.

18 Section 669. KRS 273.3182 is amended to read as follows:

19 (1) A corporation administratively dissolved under KRS 273.318 or revoked under the  
20 provisions of KRS 273.367, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248,  
21 may apply to the Secretary of State for reinstatement at any time after the effective  
22 date of dissolution or revocation. The application shall:

23 (a) Recite the name of the corporation and the effective date of its administrative  
24 dissolution or revocation;

25 (b) State that the ground or grounds for dissolution or revocation either did not  
26 exist or have been eliminated;

27 (c) State that the corporation's name satisfies the requirements of KRS 273.177;

- 1 (d) Contain a certificate from the Department of Revenue~~[Cabinet]~~ reciting that
- 2 all taxes owed by the corporation have been paid; and
- 3 (e) Be accompanied by the fee for filing a statement or report provided for in
- 4 KRS 273.368(1)(j) and the current fee for filing each delinquent annual report
- 5 provided for in KRS 273.368.

6 (2) If the Secretary of State determines that the application contains the information  
 7 required by subsection (1) of this section and that the information is correct, he shall  
 8 cancel the certificate of dissolution or revocation and prepare a certificate of  
 9 existence that recites his determination and the effective date of reinstatement, file  
 10 the original of the certificate, and serve a copy on the corporation by mailing the  
 11 notice by first class mail to the corporation at its registered office.

12 (3) When the reinstatement is effective, it shall relate back to and take effect as of the  
 13 effective date of the administrative dissolution or revocation and the corporation  
 14 shall resume carrying on its business as if the administrative dissolution or  
 15 revocation had never occurred.

16 Section 670. KRS 275.295 is amended to read as follows:

17 (1) The Secretary of State may commence a proceeding to administratively dissolve a  
 18 limited liability company if:

19 (a) The limited liability company does not deliver its annual report to the  
 20 Secretary of State within sixty (60) days after the annual report is due;

21 (b) The limited liability company is without a registered agent or registered office  
 22 in Kentucky for at least sixty (60) days; or

23 (c) The limited liability company does not notify the Secretary of State within  
 24 sixty (60) days after its registered agent or registered office has been changed,  
 25 its registered agent has resigned, or its registered office has been discontinued.

26 (2) (a) If the Secretary of State determines that one (1) or more grounds exist under  
 27 subsection (1) of this section for dissolving a limited liability company, the

1 Secretary of State shall serve the limited liability company with written notice  
2 of the determination.

3 (b) If the limited liability company does not correct each ground for dissolution or  
4 demonstrate to the reasonable satisfaction of the Secretary of State that each  
5 ground determined by the Secretary of State does not exist within sixty (60)  
6 days from the date on which notice was mailed, the Secretary of State shall  
7 administratively dissolve the limited liability company by signing a certificate  
8 of dissolution that states the ground or grounds for dissolution and its  
9 effective date. The Secretary of State shall file the original of the certificate  
10 and serve a copy on the limited liability company by mailing the notice by first  
11 class mail to the limited liability company at its registered office.

12 (3) (a) A limited liability company administratively dissolved under subsection (2) of  
13 this section may apply to the Secretary of State for reinstatement at any time  
14 after the effective date of dissolution. The application shall:

- 15 1. State the name of the limited liability company and the effective date of  
16 its administrative dissolution;
- 17 2. State that the ground or grounds for dissolution either did not exist or  
18 have been eliminated;
- 19 3. State that the limited liability company's name satisfies the requirements  
20 under KRS 275.100;
- 21 4. Contain a certificate from the Kentucky Department of Revenue~~{~~  
22 ~~Cabinet}~~ stating that all taxes owed by the limited liability company  
23 have been paid; and
- 24 5. Be accompanied by the reinstatement penalty and the current fee on  
25 filing each delinquent report as provided for in KRS 275.055(1).

26 (b) If the Secretary of State determines that the application contains the  
27 information required by paragraph (a) of this subsection and that the

1 information is correct, the Secretary of State shall:

- 2 1. Cancel the certificate of dissolution and prepare a certificate of existence
- 3 that states the determination and the effective date of existence; and
- 4 2. Serve a copy on the limited liability company.

5 (c) When the reinstatement is effective, the reinstatement shall relate back to and  
 6 take effect as of the effective date of the administrative dissolution, and the  
 7 limited liability company shall resume carrying on business as if the  
 8 administrative dissolution had never occurred.

9 (4) (a) If the Secretary of State denies a limited liability company's application for  
 10 reinstatement following administrative dissolution, the Secretary of State shall  
 11 serve the limited liability company with a written notice that explains the  
 12 reason or reasons for denial by mailing notice by first-class mail to the limited  
 13 liability company at its registered office or, if none, to the last principal office  
 14 identified on the most recent annual report.

15 (b) The limited liability company may appeal the denial of reinstatement to the  
 16 Circuit Court of the county where the limited liability company's principal  
 17 office, or, if there is none in Kentucky, its registered office, is located within  
 18 thirty (30) days after service of the notice of denial by doing the following:

- 19 1. Filing a petition with the court to set aside the dissolution; and
- 20 2. Attaching to the petition a copy of the Secretary of State's certificate of  
 21 dissolution, the limited liability company's application for reinstatement,  
 22 and the Secretary of State's notice of denial.

23 (c) The court may order the Secretary of State to reinstate the dissolved limited  
 24 company or may take other action the court considers appropriate.

25 (d) The court's final decision may be appealed as are other civil proceedings.

26 Section 671. KRS 278.130 is amended to read as follows:

27 (1) For the purpose of maintaining the commission, including the payment of salaries

1 and all other expenses, and the cost of regulation of the utilities subject to its  
 2 jurisdiction, the Department of Revenue~~Cabinet~~ shall each year assess the  
 3 utilities in proportion to their earnings or receipts derived from intrastate business in  
 4 Kentucky for the preceding calendar year as modified by KRS 278.150, and shall  
 5 notify each utility on or before July 1 of the amount assessed against it. The total  
 6 amount so assessed shall not in any year exceed two (2) mills on intrastate receipts  
 7 as so modified, which shall be deposited into the State Treasury to the credit of the  
 8 general fund. The sum by each utility shall not be less than fifty dollars (\$50) in any  
 9 one (1) year.

10 (2) The assessments provided for in this section shall be in lieu of all other fees or  
 11 assessments levied by any city or other political subdivision for the control or  
 12 regulation of utilities.

13 (3) The commission, upon application by a utility, shall authorize the utility to adjust its  
 14 rates to recover, within not more than one (1) year, any change in the annual  
 15 assessment and any costs imposed by commission order for the fees and expenses of  
 16 consultants. The application, and any hearing or other proceedings thereon, shall be  
 17 limited to the amount of such adjustment.

18 Section 672. KRS 278.150 is amended to read as follows:

19 (1) The commission shall, on or before June 1, certify to the Department of Revenue~~Cabinet~~  
 20 ~~Cabinet~~ and the Finance and Administration Cabinet the amount of intrastate  
 21 business of each utility in the state subject to its jurisdiction during the previous  
 22 calendar year. The commission shall, when certifying the intrastate sales of retail  
 23 electric suppliers, deduct from such sales one-half (1/2) of the applicable wholesale  
 24 power costs, provided the utility from which such wholesale power purchases were  
 25 made pays assessment on the full wholesale value of its gross intrastate sales in  
 26 Kentucky. When certifying the intrastate sales of retail electric suppliers not subject  
 27 to the jurisdiction of the commission for rates, the commission shall deduct one-half



1 (1/2) of their actual intrastate sales. All utilities classified as retail electric suppliers  
 2 shall pay assessments based on the amount of intrastate sales less deductions as  
 3 certified by the commission.

4 (2) The Finance and Administration Cabinet shall, on or before June 10, establish the  
 5 assessment rate and give written notification thereof to the Department of Revenue[  
 6 ~~Cabinet~~] and the commission. The Department of Revenue[~~Cabinet~~] shall collect  
 7 and pay the assessment into the State Treasury to the credit of the general  
 8 expenditure fund. All such assessments shall be paid into the State Treasury through  
 9 the Department of Revenue[~~Cabinet~~] on or before July 31 of the year in which the  
 10 assessments are made.

11 (3) If any amount in the special fund for the maintenance of the commission remains  
 12 unexpended at the end of any fiscal year, that amount shall not lapse, but shall  
 13 remain credited to the account of the commission and may be used during any  
 14 succeeding year.

15 Section 673. KRS 281.625 is amended to read as follows:

16 (1) (a) Upon the filing of an application for a certificate or permit or for amendment  
 17 or for sale, transfer, or lease, or for change in route, or for abandonment of a  
 18 certificate or permit, the department shall, within a reasonable time, fix the  
 19 time and place for a hearing.

20 (b) The department shall mail written notice of the hearing, and the right to file a  
 21 protest, in accordance with the regulations of the department and KRS  
 22 Chapter 13B, to the applicant and every authorized carrier, including railroads,  
 23 serving any part of the route proposed to be served or abandoned by the  
 24 applicant. The department may also give similar notice to any other person,  
 25 who, in the opinion of the department, may be interested in or affected by the  
 26 granting of the application.

27 (2) If a protest is filed, the department shall hold an administrative hearing on the

1 application. The department, in its discretion, may hold a hearing if no protest is  
2 filed. Hearings conducted under this section shall be conducted in accordance with  
3 KRS Chapter 13B. Any person having interest in the subject matter may, in  
4 accordance with the regulations prescribed therefor, file a protest to the granting, in  
5 whole or in part, of the application.

6 (3) If the application is for a nonprofit bus certificate and no protest is filed, the  
7 department may grant the certificate without a hearing, provided the provisions of  
8 subsection (3) of KRS 281.630 or KRS 281.801 are met.

9 (4) The department may, if the application is solely for rights previously granted by the  
10 Interstate Commerce Commission, dispense with the holding of a hearing.

11 (5) Persons engaged in the transportation in interstate commerce in Kentucky of any  
12 commodity exempted by the Interstate Commerce Commission from regulation  
13 shall be subject to the same Kentucky requirements and regulations as if the persons  
14 were transporting commodities not exempted by the Interstate Commerce  
15 Commission, except that in lieu of filing or registering with the department a  
16 certificate of public convenience and necessity as issued by the Interstate Commerce  
17 Commission, the persons shall apply to the department for a permit or certificate  
18 restricted to interstate commerce and the permit or certificate may be issued without  
19 a hearing.

20 (6) If an applicant has been granted an irregular route common carrier certificate by the  
21 Interstate Commerce Commission, the department may grant an irregular route  
22 common carrier certificate restricted to operation in interstate commerce, and on the  
23 granting of same, it shall notify the Department of Revenue~~[Cabinet]~~ of the  
24 applicant's operation.

25 (7) The department may grant a permit, upon application, to operate a U-drive-it  
26 without the holding of a hearing.

27 Section 674. KRS 281.900 is amended to read as follows:

1 (1) The Kentucky Motor Carrier Advisory Committee is created as an agency of the  
 2 Commonwealth to carry out the functions and duties conferred upon it by KRS  
 3 281.905.

4 (2) The committee shall consist of the secretary of the Transportation Cabinet, the  
 5 secretary of the *Finance and Administration*~~[Revenue]~~ Cabinet, the Speaker of the  
 6 House, the President of the Senate, or their respective designated representatives,  
 7 and nine (9) representatives of the motor carrier industry engaged in operations in  
 8 the Commonwealth in the transportation of persons or property.

9 (3) On July 15, 1990, the Governor shall appoint the motor carrier industry  
 10 representative to the committee. Members shall be appointed by the Governor for  
 11 three (3) years, except that initial appointments to the board shall be staggered in the  
 12 following manner:

13 (a) Three (3) members shall serve for a period of one (1) year;

14 (b) Three (3) members shall serve for a period of two (2) years; and

15 (c) Three (3) members shall serve for a period of three (3) years.

16 (4) Motor carrier industry representatives of the committee shall qualify for  
 17 membership by taking the constitutional oath of office and shall be provided with  
 18 certificates of appointments. The members of the committee shall serve without per  
 19 diem or compensation.

20 Section 675. KRS 287.235 is amended to read as follows:

21 (1) Common trust funds shall not be considered as an entity for income or other tax  
 22 purposes, nor shall investment in such fund make taxable any property which is  
 23 otherwise exempt therefrom; and for purposes of taxation, the status of the common  
 24 trust fund and of each participant therein shall be determined as though there were  
 25 no common fund and as though each participant was the owner of its proportionate  
 26 share of every asset held in the common fund. The bank or trust company  
 27 maintaining said fund shall file a report of said fund with the property valuation

1 administrator as of the ad valorem tax date and shall file annually such income tax  
2 information as may be required by the Department of Revenue~~[Cabinet]~~.

- 3 (2) Notwithstanding subsection (1) of this section, if a common trust fund transfers  
4 substantially all of its assets to one (1) or more regulated investment companies in  
5 exchange solely for stock in the company or companies to which such assets are  
6 transferred and such stock is distributed by such common trust fund to the  
7 participants in such common trust fund in a transaction which would qualify under  
8 Section 584(h) of the Internal Revenue Code of 1986, as amended, for the  
9 nonrecognition of gain or loss of such transfer or distribution by the common trust  
10 fund, then no gain or loss shall be recognized for Kentucky income tax purposes by  
11 the common trust fund by reason of such transfer or distribution or by the  
12 participants in such common trust fund by reason of such exchange.

13 Section 676. KRS 299.530 is amended to read as follows:

14 All domestic mutual fire insurance companies referred to in KRS 299.470 or cooperative  
15 and assessment fire insurance shall by March 1 of each year, file with the Department of  
16 Revenue~~[Cabinet]~~ a report showing the amount of premiums contracted for by them in a  
17 reinsurance company during the preceding calendar year, and shall pay at the time of  
18 making the return a tax of two dollars (\$2) on each one hundred dollars (\$100) of the  
19 premiums paid to any company not authorized to do business in this state.

20 Section 677. KRS 304.4-030 is amended to read as follows:

21 Each domestic mutual insurer shall file with the Department of Revenue~~[Cabinet]~~ each  
22 year by March 1, a report showing the premiums paid by it during the preceding calendar  
23 year to all reinsurers, and shall accompany such report with payment of a tax of two  
24 percent (2%) of the amount of premiums so paid to insurers not authorized to transact  
25 business in this state at the time such reinsurance was so ceded.

26 Section 678. KRS 304.10-180 is amended to read as follows:

- 27 (1) Each broker shall pay the following taxes:

- 1 (a) A tax at the rate of three percent (3%) on the premiums, assessments, fees,  
 2 charges, or other consideration deemed part of the premium as defined in KRS  
 3 304.14-030, on surplus lines insurance subject to tax transacted by him or her  
 4 with unauthorized insurers during the preceding calendar quarter as shown by  
 5 his or her quarterly statement filed with the commissioner in accordance with  
 6 KRS 304.10-170. The tax shall not be assessed on the premium surcharge tax,  
 7 the local government premium tax, or any other state or federal tax. The tax  
 8 shall be remitted to the commissioner within thirty (30) days of the end of  
 9 each calendar quarter. When collected the tax shall be credited to the  
 10 insurance regulatory trust fund, as established by KRS 304.2-400;
- 11 (b) The premium surcharge tax, to be remitted to the Kentucky Department of  
 12 Revenue~~[-Cabinet]~~, in accordance with KRS 136.392; and
- 13 (c) The local government premium tax, to be remitted to the appropriate city,  
 14 county, or urban-county government taxing authority, in accordance with KRS  
 15 91A.080.
- 16 (2) If a surplus lines policy covers risks or exposures only partially in this state the tax  
 17 so payable shall be computed upon the proportion of the premium which is properly  
 18 allocable to the risks or exposures located in this state.
- 19 Section 679. KRS 304.13-011 is amended to read as follows:
- 20 As used in this subtitle, unless the context requires otherwise:
- 21 (1) A "market" is the interaction between buyers and sellers consisting of a product  
 22 market component and a geographic market component. A product market  
 23 component consists of identical or readily substitutable products including but not  
 24 limited to consideration of coverage, policy terms, rate classifications, and  
 25 underwriting. A geographic market component is a geographical area in which  
 26 buyers have a reasonable degree of access to insurance sales outlets. Determination  
 27 of a geographic market component shall consider existing market patterns.

- 1 (2) "Supplementary rating information" includes any manual or plan of rates,  
2 classification, rating schedule, minimum premium, policy fees, rating rules, or any  
3 other similar information needed to determine the applicable rate or premium. This  
4 shall include underwriting rules, but only to the extent necessary to determine the  
5 rate or premium that will be applicable to a risk should the insurer decide to provide  
6 coverage. This does not include guidelines that relate to the selection of those risks  
7 that are acceptable to an insurer.
- 8 (3) "Supporting information" is the experience and judgment of the filer and the  
9 experience or data of other insurers or organizations relied on by the filer, the  
10 interpretation of any other data relied on by the filer, descriptions of methods used  
11 in making the rates, and any other information required to be filed by the  
12 commissioner.
- 13 (4) "Personal risks" means homeowners, tenants, private passenger nonfleet  
14 automobiles, mobile homes, and other property and casualty insurance for personal,  
15 family, or household needs.
- 16 (5) "Commercial risks" are any kinds of risks that are not personal risks.
- 17 (6) "Joint underwriting" is a voluntary arrangement established to provide insurance  
18 coverage for a risk pursuant to which two (2) or more insurers jointly contract with  
19 the insured at a price and under policy terms agreed on between the insurers.
- 20 (7) A "pool" is a voluntary arrangement, other than by a contract of reinsurance,  
21 established on a general and continuing basis pursuant to which two (2) or more  
22 insurers participate in the sharing of risks on a predetermined basis. A pool may  
23 operate through an association, syndicate or other pooling agreement.
- 24 (8) A "residual market mechanism" is an agreement, either voluntary or mandated by  
25 law, involving participation by insurers in the equitable apportionment among them  
26 of insurance that may be afforded applicants who are unable to obtain insurance  
27 through ordinary methods.

- 1 (9) An "advisory organization" is any entity, including its affiliates or subsidiaries,  
2 which either has two (2) or more member insurers or is controlled either directly or  
3 indirectly by two (2) or more insurers and which assists insurers in ratemaking  
4 related activities. Two (2) or more insurers having a common ownership or  
5 operating in this state under common management or control constitute a single  
6 insurer for purposes of this definition.
- 7 (10) A "competitive market" is a market that has not been found to be noncompetitive  
8 pursuant to KRS 304.13-041 and for which no such order is in effect.
- 9 (11) A "noncompetitive market" is a market for which there is an order in effect pursuant  
10 to KRS 304.13-041 that a reasonable degree of competition does not exist.
- 11 (12) "Trending" is any procedure for projecting developed losses to the average date of  
12 loss, or premiums or exposures to the average date of writing, for the period during  
13 which the policies are to be effective.
- 14 (13) "Expenses" are those portions of any rate attributable to acquisition, field  
15 supervision, and collection expenses, general expenses, and premium taxes,  
16 licenses, and fees.
- 17 (14) "Profit" is the portion of any rate attributable to funds needed for growth,  
18 contingencies, and return to stockholders.
- 19 (15) "Pure premium" means the loss cost per unit of exposure excluding all loss  
20 adjustment expenses.
- 21 (16) "Classification system" or "classification" means the process of grouping risks with  
22 similar risk characteristics so that differences in cost may be recognized.
- 23 (17) "Developed losses" means losses (including loss adjustment expenses) adjusted,  
24 using standard actuarial techniques, to their ultimate anticipated value.
- 25 (18) "Experience rating" means a rating procedure utilizing past insurance experience of  
26 the individual policyholder to forecast future losses by measuring the policyholder's  
27 loss experience against the loss experience of policyholders in the same

1 classification to produce a prospective premium credit, debit, or unity modification.

2 (19) "Form provider" means a person who prepares, files, and distributes policy contract  
3 forms and endorsements and consults with members, subscribers, customers, or  
4 others relative to their use and application, but is not an advisory organization as  
5 defined in this subtitle.

6 (20) "Loss adjustment expenses" means the expenses incurred by the insurer in the  
7 course of settling claims.

8 (21) "Prospective loss costs" means that portion of a rate that does not include  
9 provisions for expenses (other than loss adjustment expenses) or profit, and are  
10 based on historical aggregate losses or output from simulation models and loss  
11 adjustment expenses adjusted through development to their ultimate value and  
12 projected through trending to a future point in time. Loss costs, derived in part or  
13 entirely upon output from simulation models, must be approved by the  
14 commissioner before they become effective.

15 (22) "Rate" means the expected value of the future cost of insurance per exposure unit  
16 which accounts for the treatment of losses, expenses, and profit prior to any  
17 application of individual risk variations based on loss or expense considerations, but  
18 does not include minimum premium.

19 (23) "Special assessments" means guaranty fund assessments, residual market  
20 mechanism assessments, and other similar assessments which are included in  
21 ratemaking. Special assessments shall not be considered as either expenses or  
22 losses. Additional charges collected by the insurer and returned to a governmental  
23 agency on behalf of an insured are not special assessments. Examples of these  
24 additional charges include, but are not limited to, the special fund charge for  
25 workers' compensation imposed by KRS Chapter 342, local government premium  
26 tax imposed by KRS 91A.080, and the Department of Revenue~~Cabinet~~ surcharge  
27 imposed by KRS Chapter 136.



1 (24) "Statistical agent" means an entity that has been licensed by the commissioner to  
 2 collect statistics from insurers and provide reports developed from these statistics to  
 3 the commissioner for the purpose of fulfilling the statistical reporting obligations of  
 4 those insurers under this chapter.

5 Section 680. KRS 304.49-220 is amended to read as follows:

6 (1) Every captive insurer holding a certificate of authority under KRS 304.49-010 to  
 7 304.49-230 shall return to the Department of Revenue~~[Cabinet]~~ a statement under  
 8 oath of all premium receipts on business written by the captive insurer during the  
 9 preceding year and shall pay, on or before March 1 in each year, a tax at the rate of  
 10 four-tenths of one percent (0.4%) on the first twenty million dollars (\$20,000,000),  
 11 and three-tenths of one percent (0.3%) on the next twenty million dollars  
 12 (\$20,000,000), and two-tenths of one percent (0.2%) on the next twenty million  
 13 dollars (\$20,000,000), and seventy-five thousandths of one percent (0.075%) on  
 14 each dollar thereafter on the direct premiums collected or contracted for on policies  
 15 or contracts of insurance written by the captive insurer during the year ending  
 16 December 31 next preceding, after deducting from the direct premiums subject to  
 17 the tax the amounts paid to policyholders as return premiums, which shall include  
 18 dividends on unabsorbed premiums or premium deposits returned or credited to  
 19 policyholders.

20 (2) Every captive insurer holding a certificate of authority under KRS 304.49-010 to  
 21 304.49-230 shall return to the Department of Revenue~~[Cabinet]~~ a statement under  
 22 oath of all assumed reinsurance premium receipts during the preceding year and  
 23 shall pay, on or before March 1 in each year, a tax at the rate of two hundred  
 24 twenty-five thousandths of one percent (0.225%) on the first twenty million dollars  
 25 (\$20,000,000) of assumed reinsurance premiums, and one hundred fifty thousandths  
 26 of one percent (0.150%) on the next twenty million dollars (\$20,000,000), and fifty  
 27 thousandths of one percent (0.050%) on the next twenty million dollars

1 (\$20,000,000), and twenty-five thousandths of one percent (0.025%) of each dollar  
2 thereafter. However, no reinsurance tax applies to premiums for risks or portions of  
3 risks which are subject to taxation on a direct basis pursuant to subsection (1) of this  
4 section. No reinsurance premium tax shall be payable in connection with the receipt  
5 of assets in exchange for the assumption of loss reserves and other liabilities of  
6 another insurer under common ownership and control if the transaction is part of a  
7 plan to discontinue the operations of the other insurer, and if the intent of the parties  
8 to the transaction is to renew or maintain the business with the captive insurer.

9 (3) If the aggregate taxes to be paid by a captive insurer calculated under subsections  
10 (1) and (2) of this section amount to less than five thousand dollars (\$5,000) in any  
11 year, the captive insurer shall pay a tax of five thousand dollars (\$5,000) for such  
12 year.

13 (4) Two (2) or more captive insurance companies under common ownership and  
14 control shall be taxed as though they were a single captive insurer.

15 (5) For the purposes of this section, common ownership and control shall mean:

16 (a) In the case of stock corporations, the direct or indirect ownership of eighty  
17 percent (80%) or more of the outstanding voting stock of two (2) or more  
18 corporations by the same shareholder or shareholders; and

19 (b) In the case of mutual corporations, the direct or indirect ownership of eighty  
20 percent (80%) or more of the surplus and the voting power of two (2) or more  
21 corporations by the same member or members.

22 (6) In the case of a branch captive insurer, the tax provided for in this section shall  
23 apply only to the branch business of the company.

24 (7) The tax provided for in this section shall constitute all taxes collectible under the  
25 laws of Kentucky from any captive insurer, and the taxes imposed under this section  
26 shall be in lieu of all excise, license, occupational, or other taxes imposed by the  
27 state, county, city, or other taxing district except as provided in KRS 136.320(6) and

1 (7).

2 (8) The Kentucky Department of Revenue~~[-Cabinet]~~ shall annually distribute ten  
3 percent (10%) of the premium tax revenues collected pursuant to this section to the  
4 Department of Insurance for the regulation of captive insurance companies under  
5 KRS 304.49-010 to 304.49-230.

6 Section 681. KRS 342.122 is amended to read as follows:

- 7 (1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose  
8 of funding and prefunding the liabilities of the special fund, financing the  
9 administration and operation of the Kentucky Workers' Compensation  
10 Funding Commission, and financing the expenditures for all programs in the  
11 Labor Cabinet, except the Division of Employment Standards, Apprenticeship  
12 and Training and the Office of Labor-Management Relations and Mediation,  
13 as reflected in the enacted budget of the Commonwealth and enacted by the  
14 General Assembly, the funding commission shall impose a special fund  
15 assessment rate of nine percent (9%) upon the amount of workers'  
16 compensation premiums received on and after January 1, 1997, through  
17 December 31, 1997, by every insurance carrier writing workers' compensation  
18 insurance in the Commonwealth, by every group of self-insurers operating  
19 under the provisions of KRS 342.350(4), and against the premium, as defined  
20 in KRS 342.0011, of every employer carrying his or her own risk.
- 21 (b) The funding commission shall, for calendar year 1998 and thereafter, establish  
22 for the special fund an assessment rate to be assessed against all premium  
23 received during that calendar year which, when added to the coal severance  
24 tax appropriated to the special fund in accordance with paragraph (c) of this  
25 section, shall produce enough revenue to amortize on a level basis the  
26 unfunded liability of the special fund as of September 1 preceding January 1  
27 of each year, for the period remaining until December 31, 2018. The interest

1 rate to be used in this calculation shall reflect the funding commission's  
2 investment experience to date and the current investment policies of the  
3 commission. This assessment shall be imposed upon the amount of workers'  
4 compensation premiums received by every insurance carrier writing workers'  
5 compensation insurance in the Commonwealth, by every group of self-  
6 insurers operating under the provisions of KRS 342.350(4), and against the  
7 premium, as defined in KRS 342.0011, of every employer carrying his own  
8 risk.

9 (c) In addition to the assessment imposed in paragraph (a) or (b) of this  
10 subsection, and notwithstanding and prior to the transfer of funds to the Local  
11 Government Economic Assistance Program under KRS 42.450 to 42.495, the  
12 Kentucky Department of Revenue~~[-Cabinet]~~ shall credit nineteen million  
13 dollars (\$19,000,000) in coal severance tax revenues levied under KRS  
14 143.020 to the benefit reserve fund within the Kentucky Workers'  
15 Compensation Funding Commission each year beginning with fiscal year  
16 1998 and all fiscal years thereafter. The annual transfer of nineteen million  
17 dollars (\$19,000,000) shall occur in four (4) equal quarterly payments. These  
18 transfers shall occur not later than the last day of each quarter of each calendar  
19 year and shall consist of four (4) equal payments of four million, seven  
20 hundred fifty thousand dollars (\$4,750,000).

21 (d) All assessments imposed by this section shall be paid to the Kentucky  
22 Workers' Compensation Funding Commission and shall be credited to the  
23 benefit reserve fund within the Kentucky Workers' Compensation Funding  
24 Commission.

25 (e) The assessments imposed in this chapter shall be in lieu of all other  
26 assessments or taxes on workers' compensation premiums.

27 (2) These assessments shall be paid quarterly not later than the thirtieth day of the

1 month following the end of the quarter in which the premium is received. Receipt  
2 shall be considered timely through actual physical receipt or by postmark of the  
3 United States Postal Service. Employers carrying their own risk and employers  
4 defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal  
5 quarterly installments.

6 (3) The assessments imposed by this section may be collected by the insurance carrier  
7 from his insured. However, the insurance carrier shall not collect from the employer  
8 any amount exceeding the assessments imposed pursuant to this section. If the  
9 insurance carrier collects the assessment from an insured, the assessment shall be  
10 collected at the same time and in the same proportion as the premium is collected.  
11 The assessment for an insurance policy or other evidence of coverage providing a  
12 deductible may be collected in accordance with this chapter on a premium amount  
13 that equates to the premium that would have applied without the deductible. Each  
14 statement from an insurance carrier presented to an insured reflecting premium and  
15 assessment amounts shall clearly identify and distinguish the amount to be paid for  
16 premium and the amount to be paid for assessments. No insurance carrier shall  
17 collect from an insured an amount in excess of the assessment percentages imposed  
18 by this chapter. The assessment for an insurance policy or other evidence of  
19 coverage providing a deductible may be collected in accordance with this chapter on  
20 a premium amount that equates to the premium that would have applied without the  
21 deductible. The percentages imposed by this chapter for an insurance policy issued  
22 by an insurance company shall be those percentages in effect on the annual effective  
23 date of the policy, regardless of the date that the premium is actually received by the  
24 insurance company.

25 (4) A group self-insurance association may elect to report its premiums and to have its  
26 assessments computed in the same manner as insurance companies. This election  
27 may not be rescinded for at least ten (10) years, nor may this election be made a

1 second time for at least another ten (10) years, except that the board of directors of  
2 the funding commission may, at its discretion, waive the ten (10) year ban on a  
3 case-by-case basis after formal petition has been made to the funding commission  
4 by a group self-insurance association.

5 (5) The funding commission, as part of the collection and auditing of the special fund  
6 assessments required by this section, shall annually require each insurance carrier  
7 and each group self-insurer to provide a list of employers which it has insured or  
8 which are members and the amount collected from each employer. Additionally, the  
9 funding commission shall require each entity paying a special fund assessment to  
10 report the SIC code for each employer and the amount of premium collected from  
11 each SIC code. An insurance carrier or group self-insurer may require its insureds or  
12 members to furnish the SIC code for each of their employees. However, the failure  
13 of any employer to furnish said codes shall not relieve the insurance carrier or group  
14 self-insurer from the obligation to furnish same to the funding commission. The  
15 Department for Employment Services, Cabinet for Workforce Development is  
16 hereby directed to make available the SIC codes assigned in its records to specific  
17 employers to aid in the reporting and recording of the special fund assessment data.

18 (6) Each self-insured employer, group self-insurer, or insurance carrier shall provide  
19 any information and submit any reports the Department of Revenue~~[Cabinet]~~ or  
20 the funding commission may require to effectuate the provisions of this section. In  
21 addition, the funding commission may enter reciprocal agreements with other  
22 governmental agencies for the exchange of information necessary to effectuate the  
23 provisions of this section.

24 (7) The special fund shall be required to maintain a central claim registry of all claims  
25 to which it is named a party, giving each such claim a unique claim number and  
26 thereafter recording the status of each claim on a current basis. The registry shall be  
27 established by January 26, 1988, for all claims on which payments were made since

1 July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all  
2 claim files in the possession of the special fund.

3 (8) The fund heretofore designated as the subsequent claim fund is abolished, and there  
4 is substituted therefor the special fund as set out by this section, and all moneys and  
5 properties owned by the subsequent claim fund are transferred to the special fund.

6 (9) Notwithstanding any other provisions of this section or this chapter to the contrary,  
7 the total amount of funds collected pursuant to the assessment rates adopted by the  
8 funding commission shall not be limited to the provisions of this section.

9 (10) All assessment rates imposed for periods prior to January 1, 1997, under KRS  
10 342.122 shall forever remain applicable to premiums received on policies with  
11 effective dates prior to January 1, 1997, by every insurance carrier writing workers'  
12 compensation insurance in the Commonwealth, by every group of self-insurers  
13 operating under the provision of KRS 342.350(4), and against the premium, as  
14 defined in KRS 342.0011, of every employer carrying his own risk.

15 Section 682. KRS 342.1223 is amended to read as follows:

16 (1) The Kentucky Workers' Compensation Funding Commission is created as an  
17 agency of the Commonwealth for the public purpose of controlling, investing, and  
18 managing the funds collected pursuant to KRS 342.122.

19 (2) The commission shall:

20 (a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS  
21 342.122 and its other funds separate and apart from all "state funds" or "public  
22 funds," as defined in KRS Chapter 446;

23 (b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power  
24 over the funds collected pursuant to KRS 342.122, and may invest association  
25 funds through one (1) or more banks, trust companies, or other financial  
26 institutions with offices in Kentucky in good standing with the Department of  
27 Financial Institutions, in investments described in KRS Chapter 386, except

- 1           that the funding commission may, at its discretion, invest in nondividend-
- 2           paying equity securities;
- 3           (c) Report to the General Assembly at each even-numbered-year regular session
- 4           the actuarial soundness and adequacy of the funding mechanism for the
- 5           special fund and other programs supported by the mechanism, including
- 6           detailed information on the investment of funds and yields thereon;
- 7           (d) Recommend to the General Assembly, not later than October 31 of the year
- 8           prior to each even-numbered-year regular legislative session, changes deemed
- 9           necessary in the level of the assessments imposed in this chapter;
- 10          (e) In conjunction with the Labor Cabinet, submit to the General Assembly, not
- 11          later than October 31 of the year prior to each even-numbered-year regular
- 12          legislative session, a proposed budget for the biennium beginning July 1
- 13          following the even-numbered-year regular session of the General Assembly;
- 14          (f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee
- 15          on Appropriations and Revenue an annual budget and detailed quarterly
- 16          financial reports;
- 17          (g) Conduct periodic audits, independently or in cooperation with the Labor
- 18          Cabinet or the Department of Revenue~~[Cabinet]~~, of all entities subject to the
- 19          assessments imposed in this chapter; and
- 20          (h) Report monthly to the Committees on Appropriations and Revenue and on
- 21          Labor and Industry its monthly expenditures of restricted agency funds and the
- 22          nature of the expenditures.
- 23        (3) The commission shall have all of the powers necessary or convenient to carry out
- 24        and effectuate the purposes for which it was established, including, but not limited
- 25        to, the power:
- 26           (a) To sue and be sued, complain, or defend, in its name;
- 27           (b) To elect, appoint, or hire officers, agents, and employees, and define their



- 1 duties and fix their compensation within the limits of its budget approved by  
2 the General Assembly;
- 3 (c) To contract for investment counseling, legal, actuarial, auditing, and other  
4 professional services in accordance with the provisions relating to personal  
5 service contracts contained in KRS Chapter 45A;
- 6 (d) To appoint, hire, and contract with banks, trust companies, and other entities  
7 to serve as depositories and custodians of its investment receipts and other  
8 funds;
- 9 (e) To take any and all other actions consistent with the purposes of the  
10 commission and the provisions of this chapter; and
- 11 (f) To make and promulgate administrative regulations.
- 12 (4) Notwithstanding the provisions of this chapter to the contrary, the Kentucky  
13 Workers' Compensation Funding Commission shall utilize the investment expertise  
14 and advice of the Office of Financial Management in the Office of the Controller  
15 within the Finance and Administration Cabinet rather than entering into a  
16 consulting contract for investment counseling. The fees charged by financial  
17 institutions for managing the investments of the funds of the funding commission  
18 shall be paid from the investment earnings of the funds.
- 19 (5) The commission shall be attached to the Labor Cabinet for administrative purposes  
20 only.
- 21 Section 683. KRS 342.1224 is amended to read as follows:
- 22 (1) The commission shall be governed by a board of directors consisting of seven (7)  
23 members. The seven (7) members shall include the secretary of the Labor Cabinet,  
24 the secretary of the Cabinet for Economic Development or a designee, the secretary  
25 of the Finance and Administration[Revenue] Cabinet or a designee, and four (4)  
26 members who shall be appointed by the Governor.
- 27 (2) The four (4) appointed members shall include:

- 1       (a) One (1) member, selected from a list of three (3) submitted by the secretary of
- 2       labor, who shall represent labor;
- 3       (b) One (1) member, selected from a list of three (3) submitted by the secretary
- 4       for economic development, who shall represent employers, provided,
- 5       however, that these three (3) members shall represent employers who
- 6       purchase workers' compensation coverage for their employees from insurance
- 7       companies writing workers' compensation insurance in the Commonwealth;
- 8       (c) One (1) member, selected from a list of three (3) submitted by the insurance
- 9       advisory organization having jurisdiction over Kentucky, who shall represent
- 10      insurance companies writing workers' compensation insurance in the
- 11      Commonwealth; and
- 12      (d) One (1) member, selected from a list of three (3) submitted by the associations
- 13      representing self-insured employers in the Commonwealth.
- 14    (3) The members of the board of directors shall serve a term of four (4) years, except
- 15      that the initial terms of the members shall be staggered as follows:
- 16      (a) The initial member appointed by the Governor to represent labor shall serve a
- 17      term of one (1) year. Thereafter, such member shall serve a term of four (4)
- 18      years;
- 19      (b) The initial member appointed by the Governor to represent employers shall
- 20      serve a term of two (2) years. Thereafter, such member shall serve a term of
- 21      four (4) years;
- 22      (c) The initial member appointed by the Governor to represent insurance
- 23      companies shall serve a term of four (4) years. Thereafter, such member shall
- 24      serve a term of four (4) years; and
- 25      (d) The initial member appointed by the Governor to represent self-insured
- 26      employers shall serve a term of three (3) years. Thereafter, such member shall
- 27      serve a term of four (4) years.

- 1 (4) The board of directors shall annually elect from among its members a chairman, a  
 2 vice chairman, and a secretary-treasurer. The board of directors may also elect or  
 3 appoint, and prescribe the duties of, other officers as the board of directors deems  
 4 necessary or advisable.
- 5 (5) The board of directors shall appoint an executive director to administer, manage,  
 6 and direct the affairs and business of the commission, and other staff persons to  
 7 carry out the affairs and business of the commission, subject in each instance to the  
 8 policies, control, and directions of the board of directors. The board of directors  
 9 shall fix the compensation of all such persons and shall pay such compensation out  
 10 of the funds of the commission.
- 11 (6) Notwithstanding any other law, the Governor, pursuant to an executive order, may  
 12 cause the employees of the commission to be eligible to participate in the Kentucky  
 13 Retirement System and the Kentucky Public Employees Deferred Compensation  
 14 System.
- 15 (7) A majority of the board of directors of the commission shall constitute a quorum for  
 16 the purposes of conducting its business and exercising its powers and for all other  
 17 purposes. The majority shall be determined by excluding any existing vacancies  
 18 from the total number of directors.
- 19 (8) The board of directors of the Kentucky Workers' Compensation Funding  
 20 Commission are hereby determined to be officers and agents of the Commonwealth  
 21 of Kentucky and, as such, shall enjoy the same immunities from suit for the  
 22 performance of their official acts as do other officers of the Commonwealth of  
 23 Kentucky.
- 24 Section 684. KRS 342.447 is amended to read as follows:
- 25 (1) All funds collected by insurance companies from their insureds, prior to October 26,  
 26 1987, for assessments of the Kentucky Reinsurance Association or special fund  
 27 taxes and assessments of the Kentucky Department of Revenue~~[- Cabinet]~~ not

1 previously paid, shall be paid in full by January 1, 1988, to the Kentucky Workers'  
2 Compensation Funding Commission.

3 (2) To ensure compliance with the provisions of subsection (1) of this section, the  
4 Department of Revenue~~[-Cabinet]~~ shall conduct audits of insurance companies. The  
5 costs of such audits shall be borne by the Kentucky Workers' Compensation  
6 Funding Commission. The Department of Revenue~~[-Cabinet]~~ may enter an  
7 agreement with the Department of Insurance for assistance in conducting such  
8 audits or it may hire additional auditors on a temporary basis. The audits shall  
9 commence within sixty (60) days from October 26, 1987, and shall be completed  
10 within six (6) months. The aggregate findings of such audits shall be presented to  
11 the commissioner~~[-secretary]~~ of revenue, the commissioner of insurance, the  
12 Kentucky Workers' Compensation Funding Commission, and the Governor.

13 (3) If the audits reveal noncompliance with subsection (1) of this section, the  
14 Department of Revenue~~[-Cabinet]~~ shall notify the affected party of such fact. The  
15 affected party shall remit the amount in question not later than thirty (30) days  
16 following notification and the Department of Revenue~~[-Cabinet]~~ shall institute a  
17 civil action in Franklin Circuit Court if remittance is not made within such thirty  
18 (30) day period.

19 (4) The failure of an insurance company to comply with the provisions of this section  
20 shall constitute grounds for the revocation by the commissioner of insurance of such  
21 entity's authority to write workers' compensation coverage in the Commonwealth.

22 (5) The Department of Revenue~~[-Cabinet]~~ shall report to the commissioner of  
23 insurance the failure of any insurance company to comply with the provisions of  
24 this section and the commissioner shall institute revocation procedures of such  
25 entity's authority to write workers' compensation coverage in the Commonwealth.

26 (6) "Funds collected" as used in subsection (1) of this section shall mean all funds  
27 collected without reduction for credits, refund, or returns of any type made to

1        insureds or group members after September 1, 1987.

2        Section 685. KRS 351.175 is amended to read as follows:

- 3        (1) The operation of a coal mine in Kentucky is a privilege granted by the  
 4        Commonwealth of Kentucky to a licensee who satisfies the requirements of this  
 5        section and demonstrates that the mine is or will be operated in a safe manner and in  
 6        accordance with the laws of this Commonwealth.
- 7        (2) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the  
 8        owner, operator, lessee, or licensee of each mine shall procure from the department  
 9        a license to operate the mine, and the license shall not be transferable. Any owner,  
 10       operator, lessee, or licensee who assumes control of a mine, opens a new mine, or  
 11       reopens an abandoned mine during any calendar year shall procure a license before  
 12       mining operations are begun.
- 13       (3) The license shall be in printed form as the commissioner may prescribe and when  
 14       issued shall be kept posted at a conspicuous place near the main entrance of the  
 15       mine.
- 16       (4) Requests for a license shall be made to the department and shall be accompanied by  
 17       a United States postal money order or cashier's check drawn in favor of the State  
 18       Treasurer in an amount established by administrative regulations of a minimum of  
 19       one hundred dollars (\$100) and a maximum of fifteen hundred dollars (\$1,500).  
 20       When the annual report of the licensee and the annual mine map, as required by  
 21       KRS 351.170 and 352.450, together with a certification from the commissioner of  
 22       the Department of Workers' Claims that the applicant for license has presented  
 23       positive proof of compliance with the provisions of KRS Chapter 342, and a  
 24       certification from the commissioner~~secretary~~ of the Department of Revenue~~Cabinet~~  
 25       ~~Cabinet~~ that the applicant is not a "delinquent taxpayer" as defined in KRS Chapter  
 26       131, are properly submitted to the department, the license shall be issued. The  
 27       commissioner of the Department of Mines and Minerals or his accredited agents

shall have the authority to extend the time for filing of the map not to exceed an additional forty-five (45) days. Upon receipt of withdrawal of the certification of the commissioner of the Department of Workers' Claims, or upon receipt of notice from the commissioner~~[secretary]~~ of revenue that the licensee is a "delinquent taxpayer," as defined in KRS Chapter 131, the department shall forthwith revoke any license issued. Revocation of a license shall be an administrative function of the department. Appeal of the revocation of a license shall lie in the Fayette Circuit Court.

(5) The mine inspector shall have the authority to stop production or close any mine whose operator fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.

(6) The department shall be authorized to seek injunctive relief for any violation of this section.

(7) A license which has been revoked under the "delinquent taxpayer" provision shall not be reissued until a written tax clearance has been received from the commissioner~~[secretary]~~ of revenue.

(8) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

Section 686. KRS 353.205 is amended to read as follows:

(1) The Department of Revenue~~[Cabinet]~~ shall submit to the department on or before September 1 of each year, beginning in 1995 for 1994 production data, statistics on crude oil as reported to the Department of Revenue~~[Cabinet]~~ under the crude oil excise tax requirements of KRS Chapter 137 and statistics on natural gas production as reported to the Department of Revenue~~[Cabinet]~~ under the natural resources

1 severance tax requirements of KRS Chapter 143A.

2 (2) The department shall organize the information it receives from the Department of  
 3 Revenue~~[Cabinet]~~ into a standard format, and shall make it available for public  
 4 release no earlier than January 1 nor later than March 1 of the following year, with  
 5 the exception of the first year, when data shall be made available by September 1,  
 6 1996. The information shall be open for public inspection and available for sale at  
 7 the offices of the department. The department may allow the Kentucky Geological  
 8 Survey to use the production information in ongoing research as soon as it is  
 9 obtained from the Department of Revenue~~[Cabinet]~~, so long as the information is  
 10 not released to the public before January 1 of the year after it is reported.

11 (3) The Department of Revenue~~[Cabinet]~~ shall submit to the department the oil and  
 12 gas production data which was reported in years prior to 1995, and the department  
 13 shall make this information available for public release when it has been processed.

14 Section 687. KRS 365.270 is amended to read as follows:

15 As used in KRS 365.260 to 365.380, unless the context otherwise requires:

16 (1) "Person" means and includes any individual, firm, association, company,  
 17 partnership, corporation, joint stock company, club, agency, syndicate, the  
 18 Commonwealth of Kentucky and any municipal corporation or other political  
 19 subdivision of this state, trust, receiver, trustee, fiduciary, or conservator.

20 (2) "Commissioner~~[Secretary]~~" means the commissioner~~[secretary]~~ of the Department  
 21 of Revenue~~[Cabinet]~~ of the Commonwealth of Kentucky.

22 (3) "Department~~[Cabinet]~~" means the Department of Revenue~~[Cabinet]~~.

23 (4) "Cigarettes" means and includes any roll for smoking made wholly or in part of  
 24 tobacco, irrespective of size or shape and whether or not the tobacco is flavored,  
 25 adulterated, or mixed with any other ingredient, the wrapper or cover of which is  
 26 made of paper or any other substance or material, excepting tobacco.

27 (5) "Wholesaler" means any person who sells cigarettes at wholesale or distributes

1 cigarettes to be sold at retail, and includes any manufacturer, distributor, jobber,  
2 subjobber as defined in KRS 138.130(11), broker, agent, or other person, whether  
3 or not enumerated in this subsection, who sells or distributes cigarettes.

4 (6) "Retailer" means and includes any person who sells cigarettes in this state to a  
5 consumer or to any person for any purpose other than resale.

6 (7) "Sale" or "sell" means any transfer for consideration or gift.

7 (8) "Sell at wholesale," "sale at wholesale," and "wholesale sales" means and includes  
8 any sale made in the ordinary course of trade or usual conduct of the wholesaler's  
9 business to a retailer for the purpose of resale.

10 (9) "Sell at retail," "sale at retail," or "retail sales" means and includes any sale for  
11 consumption or use made in the ordinary course of trade or usual conduct of the  
12 seller's business.

13 (10) "Basic cost of cigarettes" means the invoice cost of cigarettes to the wholesaler or  
14 retailer, as the case may be, less all trade discounts, except customary cash  
15 discounts, plus the full face value of any stamps or any tax which may be required  
16 by any cigarette tax act of this state or political subdivision thereof, now in effect or  
17 hereafter enacted, if not already included in the invoice cost of the cigarettes to the  
18 wholesaler or retailer, as the case may be.

19 (11) (a) "Cost to wholesaler" means the basic cost of the cigarettes involved to the  
20 wholesaler plus the cost of doing cigarette business by the wholesaler. In  
21 determining the cost of doing cigarette business by the wholesaler, the cost of  
22 doing business by the wholesaler shall first be determined by applying the  
23 standards and methods of accounting regularly employed by him, and includes  
24 labor costs, including salaries of executives and officers, rent, depreciation,  
25 selling costs, maintenance of equipment, delivery costs, all types of licenses,  
26 taxes, insurance, and advertising. The cost of doing business by the wholesaler  
27 shall then be multiplied by the fraction obtained through dividing the



1 wholesaler's cigarette sales for the preceding six (6) months by the  
 2 wholesaler's total sales for the same period and the product thereof shall be the  
 3 cost of doing cigarette business.

4 (b) In the absence of proof of a lesser or higher cost of doing cigarette business by  
 5 the wholesaler making the sale, the cost of doing cigarette business by the  
 6 wholesaler shall be presumed to be two percent (2%) of the basic cost of the  
 7 cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed  
 8 or paid for by the wholesale dealer. Cartage cost, in the absence of proof of a  
 9 lesser or higher cost, shall be presumed to be three-fourths of one percent  
 10 (0.75%) of the basic cost of the cigarettes to the wholesaler.

11 (12) (a) "Cost to the retailer" means the basic cost of cigarettes involved to the retailer  
 12 plus the cost of doing cigarette business by the retailer. In determining the cost  
 13 of doing cigarette business by the retailer, the cost of doing business by the  
 14 retailer shall first be determined by applying the standards and methods of  
 15 accounting regularly employed by him and includes labor, including salaries  
 16 of executives and officers, rent, depreciation, selling costs, maintenance of  
 17 equipment, delivery costs, all types of licenses, taxes, insurance, and  
 18 advertising. The cost of doing business by the retailer shall then be multiplied  
 19 by the fraction obtained through dividing the retailer's cigarette sales for the  
 20 preceding six (6) months by the retailer's total sales for the same period and  
 21 the product thereof shall be the cost of doing cigarette business.

22 (b) In the absence of proof of a lesser or higher cost of doing cigarette business by  
 23 the retailer making the sale, the cost of doing cigarette business by the retailer  
 24 shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the  
 25 retailer.

26 Section 688. KRS 365.350 is amended to read as follows:

27 (1) The department~~[cabinet]~~, or any person injured by any violation, or who may suffer

injury from any threatened violation of KRS 365.260 to 365.380, may maintain an action in any court of equitable jurisdiction to prevent, restrain, or enjoin the violation or threatened violation. If a violation or threatened violation of KRS 365.260 to 365.380 shall be established, the court shall enjoin and restrain, or otherwise prohibit, the violations or threatened violation. In addition, the court shall assess in favor of the plaintiff and against the defendant the cost of the suit, including reasonable attorney's fees. It shall not be necessary that actual damages to the plaintiff be alleged or proved, but if alleged and proved, the plaintiff in the action, in addition to injunctive relief, the costs of the suit, and reasonable attorney's fees, shall be entitled to recover from the defendant the actual damages sustained by him.

- (2) If no injunctive relief is sought or required, any person injured by a violation of KRS 365.260 to 365.380 may maintain an action for damages and the costs of suit in any court of general jurisdiction.

Section 689. KRS 365.370 is amended to read as follows:

- (1) The department~~[cabinet]~~ shall promulgate administrative regulations for the enforcement of KRS 365.260 to 365.380 and may from time to time undertake and make or cause to be made one (1) or more cost surveys for the state or trading area or areas as it defines. When each survey is made by or approved by the department~~[cabinet]~~, it may use the cost survey as provided in subsection (2) of KRS 365.320 and subsection (2) of 365.360.
- (2) The department~~[cabinet]~~ may, upon notice and after hearing, revoke or suspend any license issued under KRS 138.195 and the administrative regulations of the department~~[cabinet]~~ promulgated thereunder, for failure of any person to comply with any provisions of KRS 365.260 to 365.380 or any administrative regulation adopted thereunder.
- (3) All of the powers vested in the commissioner~~[secretary]~~ and Department of

1 Revenue~~[Cabinet]~~ by the provisions of the cigarette tax law shall be available for  
2 the enforcement of KRS 365.260 to 365.380.

3 (4) Any person aggrieved by any decision, order, or finding of the Department of  
4 Revenue~~[cabinet]~~, suspending or revoking any license, may appeal to the Kentucky  
5 Board of Tax Appeals by filing a petition of appeal with the board in the manner  
6 and form and within the time and subject to the terms and conditions as the board  
7 shall by administrative regulation prescribe.

8 Section 690. KRS 365.390 is amended to read as follows:

9 (1) To provide for the enforcement of KRS 138.146 and KRS 365.260 to 365.380,  
10 every cigarette wholesaler licensed under KRS 138.195 shall pay an enforcement  
11 and administration fee to the Department of Revenue~~[Cabinet]~~ on a monthly basis  
12 for each package of twenty (20) cigarettes to which evidence of Kentucky cigarette  
13 tax was affixed during the month as required by KRS 138.146. The enforcement  
14 and administration fee to recover applicable costs shall be calculated annually by  
15 the commissioner~~[secretary]~~ of revenue who shall give notice thereof to licensed  
16 wholesalers who shall be liable for its payment. Payments to the Department of  
17 Revenue~~[Cabinet]~~ shall be made according to provisions of KRS 138.195 and shall  
18 be subject to the same penalties and interest as levied on Kentucky cigarette tax not  
19 paid on or before the due date.

20 (2) There is hereby created within the Department of Revenue~~[Cabinet]~~ a cigarette  
21 enforcement and administration account, which will be subject to the provisions of  
22 the restricted fund group, as provided in KRS 45.305, and all funds collected under  
23 subsection (1) of this section shall be credited thereto with only the expenses of the  
24 Department of Revenue~~[Cabinet]~~ related to the administration and enforcement of  
25 KRS 138.146 and KRS 365.260 to 365.380 to be paid therefrom.

26 (3) The enforcement and administration fee levied in subsection (1) of this section shall  
27 be deemed to be an additional cost to be included in the basic cost of cigarettes as

1 defined in KRS 365.270.

2 Section 691. KRS 365.665 is amended to read as follows:

3 Any transient merchant desiring to transact business in any county in this state shall make  
4 application for and obtain a permit in each county in which the merchant desires to  
5 transact business at least ten (10) days prior to transacting business in the county. The  
6 application for permit shall be designed and distributed by the Department of Revenue~~Cabinet~~,  
7 shall be filed by the transient merchant with the county clerk, or the officer of  
8 an urban-county government having the responsibility for the issuance of business  
9 permits and licenses generally and shall include but not be limited to the following  
10 information:

- 11 (1) The name and permanent address of the transient merchant making the application,  
12 and if the applicant is a firm or corporation, the name and address of the members  
13 of the firm or the officers of the corporation;
- 14 (2) If the applicant is a corporation, there shall be stated on the application form the  
15 date of incorporation, the state of incorporation, and if the applicant is a corporation  
16 formed in a state other than Kentucky, the date on which such corporation qualified  
17 to transact business as a foreign corporation in this state;
- 18 (3) A statement showing the kind of business proposed to be conducted, the length of  
19 time for which the applicant desires to transact such business and the location of the  
20 proposed place of business;
- 21 (4) An estimate of the aggregate market value of any goods, wares or merchandise to be  
22 offered for sale during the permit period;
- 23 (5) A statement that the applicant has acquired all other required city, county and state  
24 permits and licenses;
- 25 (6) The applicant's sales and use tax permit number or temporary vendor's registration  
26 number, and the Social Security numbers, of all salesmen employed by the  
27 applicant, or representing the applicant, in the transaction of business in the

1 Commonwealth of Kentucky;

2 (7) The name and permanent address of the transient merchant's registered agent or  
3 office; and

4 (8) Evidence of security as outlined in KRS 365.680. The absence of any of the above  
5 information shall result in the denial of the permit by the county clerk.

6 Section 692. KRS 365.670 is amended to read as follows:

7 The county clerk shall forward a copy of each approved application to the Department of  
8 Revenue~~Cabinet~~ and to the office of the Attorney General within ten (10) days of  
9 approval.

10 Section 693. KRS 369.118 is amended to read as follows:

11 (1) Except as otherwise provided in KRS 369.112(6), each governmental agency of this  
12 state, in compliance with standards established by the Commonwealth Office  
13 of~~Governor's Office for~~ Technology, shall determine whether, and the extent to  
14 which, it will send and accept electronic records and electronic signatures to and  
15 from other persons and otherwise create, generate, communicate, store, process,  
16 use, and rely upon electronic records and electronic signatures.

17 (2) To the extent that a governmental agency uses electronic records and electronic  
18 signatures under subsection (1) of this section:

19 (a) The Commonwealth Office of~~Governor's Office for~~ Technology, giving due  
20 consideration to security, may specify the manner and format in which the  
21 electronic records must be created, generated, sent, communicated, received,  
22 and stored and the systems established for those purposes;

23 (b) If electronic records must be signed by electronic means, each governmental  
24 agency, giving due consideration to security, may specify the type of  
25 electronic signature required, the manner and format in which the electronic  
26 signature must be affixed to the electronic record, and the identity of, or  
27 criteria that must be met by, any third party used by a person filing a document

1 to facilitate the process;

2 (c) The Commonwealth Office of~~Governor's Office for~~ Technology and the  
3 Department for Libraries and Archives, giving due consideration to security,  
4 may specify control processes and procedures as appropriate to ensure  
5 adequate preservation, disposition, integrity, security, confidentiality, and  
6 auditability of electronic records; and

7 (d) Each governmental agency, giving due consideration to security, may specify  
8 any other required attributes for electronic records which are specified for  
9 corresponding nonelectronic records or reasonably necessary under the  
10 circumstances.

11 (3) Except as otherwise provided in KRS 369.112(6), KRS 369.101 to 369.120 does  
12 not require a governmental agency of this state to use or permit the use of electronic  
13 records or electronic signatures.

14 Section 694. KRS 369.119 is amended to read as follows:

15 The Commonwealth Office of~~Governor's Office for~~ Technology, which adopts  
16 standards pursuant to KRS 369.118(2)(a), may encourage and promote consistency and  
17 interoperability with similar requirements adopted by other governmental agencies of this  
18 and other states and the federal government and nongovernmental persons interacting  
19 with governmental agencies of this state. If appropriate, those standards may specify  
20 differing levels of standards from which governmental agencies of this state may choose  
21 in implementing the most appropriate standard for a particular application.

22 Section 695. KRS 387.025 is amended to read as follows:

23 (1) Any interested person or entity may petition the District Court for the appointment  
24 of a guardian or limited guardian for an unmarried minor.

25 (2) Any interested person or entity may petition the District Court for appointment of a  
26 conservator for a minor who owns real or personal property, or both, requiring  
27 management or protection or who has or may have business interests that may be

1       jeopardized or prevented by minority, or who needs a conservator to settle or  
2       compromise claims.

3       (3) The petition for appointment shall set forth the following:

4           (a) The name and address of the minor;

5           (b) The date of birth of the minor;

6           (c) The name and address of the minor's spouse, if any;

7           (d) The names and addresses of the minor's parents, or if the minor has no living  
8           parent, the names and addresses of the minor's adult next of kin;

9           (e) The name and address of the individual or facility having custody of the  
10          minor;

11          (f) The facts and reasons supporting the need for a guardianship, limited  
12          guardianship, or conservatorship for the minor;

13          (g) A description and approximation of the value of the minor's real and personal  
14          property and other financial resources, including government benefits,  
15          insurance entitlements, and anticipated yearly income;

16          (h) The name and address of the petitioner;

17          (i) The name and address of the petitioner's attorney, if any; and

18          (j) The name and address of the person or entity desiring appointment as  
19          guardian, limited guardian, or conservator.

20       (4) The petition shall be accompanied by a verified application of the person or entity  
21       desiring appointment as guardian, limited guardian, or conservator. The application  
22       shall set forth the following:

23           (a) Name, address, and age of the applicant;

24           (b) The applicant's relationship to the minor, if any;

25           (c) Whether or not the applicant has ever been convicted of a crime; and

26           (d) The applicant's qualifications to serve as guardian, limited guardian, or  
27       conservator.

1 (5) A duplicate copy of the petition and application shall be mailed by the clerk to the  
 2 commissioner~~[secretary]~~ of the Department of Revenue~~[-Cabinet]~~. The District  
 3 Court shall appoint a time for hearing the petition and application. Notice of the  
 4 time and place of the hearing shall be given not less than five (5) days prior to the  
 5 hearing to the minor, if the minor is more than fourteen (14) years of age, and to  
 6 each of the persons or entities required to be named in the petition. Proof of notice  
 7 shall be made in accordance with the provisions of KRS 395.016. Notice may be  
 8 waived as provided in KRS 395.016.

9 Section 696. KRS 424.260 is amended to read as follows:

10 (1) Except where a statute specifically fixes a larger sum as the minimum for a  
 11 requirement of advertisement for bids, no city, county, or district, or board or  
 12 commission of a city or county, or sheriff or county clerk, may make a contract,  
 13 lease, or other agreement for materials, supplies except perishable meat, fish, and  
 14 vegetables, equipment, or for contractual services other than professional, involving  
 15 an expenditure of more than twenty thousand dollars (\$20,000) without first making  
 16 newspaper advertisement for bids.

17 (2) If the fiscal court requires that the sheriff or county clerk advertise for bids on  
 18 expenditures of less than twenty thousand dollars (\$20,000), the fiscal court  
 19 requirement shall prevail.

20 (3) (a) Nothing in this statute shall limit or restrict the ability of a local school district  
 21 to acquire supplies and equipment outside of the bidding procedure if those  
 22 supplies and equipment meet the specifications of the contracts awarded by  
 23 the Office~~[Division]~~ of Material and Procurement Services in the Office of  
 24 the Controller within the Finance and Administration Cabinet or a federal,  
 25 local, or cooperative agency and are available for purchase elsewhere at a  
 26 lower price. A board of education may purchase those supplies and equipment  
 27 without advertising for bids if, prior to making the purchases, the board of



1 education obtains certification from the district's finance or purchasing officer  
2 that the items to be purchased meet the standards and specifications fixed by  
3 state price contract, federal (GSA) price contract, or the bid of another school  
4 district whose bid specifications allow other districts to utilize their bids, and  
5 that the sales price is lower than that established by the various price contract  
6 agreements or available through the bid of another school district whose bid  
7 specifications would allow the district to utilize their bid.

8 (b) The procedures set forth in paragraph (a) of this subsection shall not be  
9 available to the district for any specific item once the bidding procedure has  
10 been initiated by an invitation to bid and a publication of specifications for  
11 that specific item has been published. In the event that all bids are rejected, the  
12 district may again avail itself of the provisions of paragraph (a) of this  
13 subsection.

14 (4) This requirement shall not apply in an emergency if the chief executive officer of  
15 the city, county, or district has duly certified that an emergency exists, and has filed  
16 a copy of the certificate with the chief financial officer of the city, county, or  
17 district, or if the sheriff or the county clerk has certified that an emergency exists,  
18 and has filed a copy of the certificate with the clerk of the court where his necessary  
19 office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the  
20 superintendent of the board of education has duly certified that an emergency exists,  
21 and has filed a copy of the certificate with the chief state school officer.

22 (5) The provisions of subsection (1) of this section shall not apply for the purchase of  
23 wholesale electric power for resale to the ultimate customers of a municipal utility  
24 organized under KRS 96.550 to 96.900.

25 Section 697. KRS 438.335 is amended to read as follows:

26 The Department of Agriculture shall carry out the provisions of KRS 438.305 to 438.340  
27 as they relate to educating the public and sellers of tobacco products about provisions and

1 penalties of KRS 438.305 to 438.340. The Department of Agriculture shall be entitled to  
 2 the revenue produced by one-twentieth of one cent (\$0.0005) of the three-cent (\$0.03) per  
 3 pack revenue collected by the Department of Revenue~~[Cabinet]~~ from the state excise tax  
 4 on the sale of cigarettes as imposed by KRS 138.140 and to keep fifty percent (50%) of  
 5 any fines collected under KRS 438.305 to 438.340 to offset the costs of these education  
 6 efforts.

7 Section 698. KRS 514.010 is amended to read as follows:

8 The following definitions apply in this chapter unless the context otherwise requires:

9 (1) "Deprive" means:

10 (a) To withhold property of another permanently or for so extended a period as to  
 11 appropriate a major portion of its economic value or with intent to restore only  
 12 upon payment of reward or other compensation; or

13 (b) To dispose of the property so as to make it unlikely that the owner will  
 14 recover it.

15 (2) "Financial institution" means a bank, insurance company, credit union, building and  
 16 loan association, savings and loan association, investment trust or other  
 17 organization held out to the public as a place of deposit of funds or medium of  
 18 savings or collective investment.

19 (3) "Movable property" means property the location of which can be changed, including  
 20 things growing on, affixed to, or found in land, and documents although the rights  
 21 represented thereby have no physical location. "Immovable property" is all other  
 22 property.

23 (4) "Obtain" means:

24 (a) In relation to property, to bring about a transfer or purported transfer from  
 25 another person of a legal interest in the property, whether to the obtainer or  
 26 another; or

27 (b) In relation to labor or service, to secure performance thereof.

- 1 (5) "Propelled vehicle" means any vehicle, including but not limited to motor vehicles,  
2 aircraft, boats, or construction machinery, which is propelled otherwise than by  
3 muscle power or which is readily capable of being towed otherwise than by muscle  
4 power.
- 5 (6) "Property" means anything of value, including real estate, tangible and intangible  
6 personal property, contract rights, documents, choses-in-action and other interests in  
7 or claims to wealth, admission or transportation tickets, captured or domestic  
8 animals, food and drink.
- 9 (7) "Property of another" includes property in which any person other than the actor has  
10 an interest which the actor is not privileged to infringe, regardless of the fact that  
11 the actor also has an interest in the property and regardless of the fact that the other  
12 person might be precluded from civil recovery because the property was used in an  
13 unlawful transaction or was subject to forfeiture as contraband. Property in  
14 possession of the actor shall not be deemed property of another who has only a  
15 security interest therein, even if legal title is in the creditor pursuant to a conditional  
16 sales contract or other security arrangement.
- 17 (8) "Receiving" means acquiring possession, control or title or lending on the security  
18 of the property.
- 19 (9) "Services" includes labor, professional service, transportation, telephone, electricity,  
20 gas, water or other public service, accommodation in hotels, restaurants or  
21 elsewhere, admission to exhibitions, use of vehicles or other movable property.
- 22 (10) "Tax liability" for purposes of this chapter means the amount of money by which a  
23 person understates the total amount of taxes due or collected and not remitted to the  
24 Commonwealth, or the amount he fails to pay to the state, or both. Any person  
25 whose income is subject to the withholding of income tax and from whose income  
26 taxes are withheld shall be considered, for purposes of this chapter, to have paid to  
27 the Commonwealth the sum of money withheld, whether or not such sum withheld

1 is paid to the Commonwealth.

2 (11) "Tax return" means any return, declaration, report or form issued or prescribed by  
3 the Department of Revenue~~[Cabinet]~~ and required to be filed with the Department  
4 of Revenue ~~[Cabinet]~~ as prescribed by law.

5 Section 699. KRS 42.019 is amended to read as follows:

6 (1) The Division of Historic Properties established by Section 17 of this Act~~[KRS~~  
7 ~~42.027]~~ shall be responsible for overseeing the management and preservation of  
8 state-owned historic properties including, but not limited to, the Executive  
9 Mansion, Old Governor's Mansion, Vest Lindsey House, Berry Hill, State Capitol,  
10 and Henry Clay Law Office. In addition, the division shall be responsible for  
11 maintaining state-owned furniture, china, silver, and art works and the care, display,  
12 inventory, conservation, restoration, and storage of any state-owned item of  
13 historical significance.

14 (2) The Department of Parks and the Kentucky Horse Park may advise and consult the  
15 Division of Historic Properties in the operation, maintenance, restoration,  
16 conservation, and inventory of the state's shrines and museums.

17 (3) The director of the Division of Historic Properties shall serve as state curator  
18 pursuant to KRS 11.026. The director may employ the personnel and assemble the  
19 records and files necessary to perform the duties, responsibilities, and functions of  
20 the office.

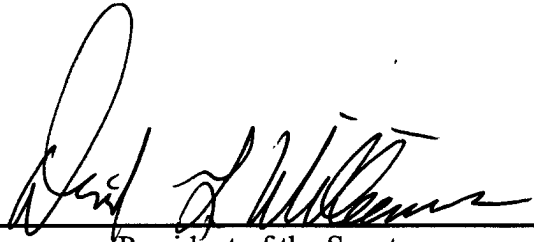
21 Section 700. The following KRS section is repealed:

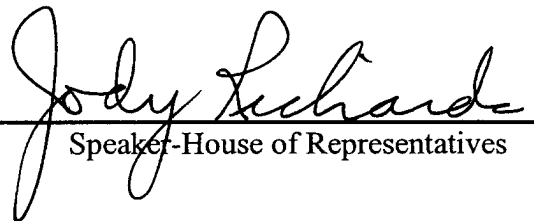
22 67A.884 Assistance agreement with Kentucky Pollution Abatement Authority.

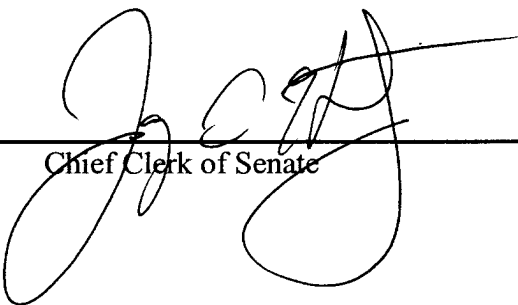
23 Section 701. In order to reflect the reorganization effectuated by this Act, the  
24 reviser or statutes shall replace references in the Kentucky Revised Statutes to the  
25 agencies, subagencies, and officers affected by this Act with references to the appropriate  
26 successor agencies, subagencies, and officers established by this Act. The reviser of  
27 statutes shall base these actions on the functions assigned to the new entities by this Act

1 and may consult with officers of the affected agencies, or their designees, to receive  
2 suggestions.

3       Section 702. Any provision of law to the contrary notwithstanding, the General  
4 Assembly hereby confirms the portion of the Governor's Executive Order 2004-723,  
5 dated July 9, 2004, relating to the Finance and Administration Cabinet and the abolishing  
6 of the Revenue Cabinet to the extent it is not otherwise confirmed or superseded by this  
7 Act.

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker-House of Representatives

Attest:   
\_\_\_\_\_  
Chief Clerk of Senate

Approved   
\_\_\_\_\_  
Governor

Date   
\_\_\_\_\_